Laws, Resolutions and Memorials

OF THE

STATE OF MONTANA

PASSED BY THE

Thirty-sixth Legislative Assembly
In Regular Session

Held at Helena, the Seat of Government of Said State,
Commencing January 5, 1959, and
Ending March 5, 1959

PUBLISHED BY AUTHORITY

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Certificate of Authentication

State of Montana
Department of Secretary of State } ss.

I, Frank Murray, Secretary of State of the State of Montana, do hereby certify that by virtue of the authority vested in me by law I have prepared for publication and caused to be printed a copy of all laws, memorials, resolutions and appropriation measures passed by the Thirty-sixth Legislative Assembly of the State of Montana, at the Thirty-sixth Session commencing January 5, 1959, and concluding March 5, 1959; that I have caused to be compared the said printed laws, memorials, resolutions and appropriation measures with the original manuscript thereof now on file in my office, and that the following are true, full and correct copies thereof, including the Constitutional amendment and referendum measures adopted by the people of Montana at the general election held in the State of Montana November 4, 1958.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Seat of Government, this 15th day of June, 1959.

Frank Murray

Secretary of State.

OFFICERS AND MEMBERS
OF THE
Thirty-sixth Legislative Assembly of the State of Montana
1959

J. HUGO ARONSON, GOVERNOR
Paul Cannon, Lieutenant Governor and President of the Senate.
John J. MacDonald, Speaker of the House.
David F. James, President Pro Tem of the Senate.
Dave M. Manning, President Pro Tem (Ad Interim).

Members of Senate

NAME	RESIDENCE	County	POLITICS
Anderson, Dr. Henry H.	119 E. 5th, Libby	Lincoln	Democrat
Anderson, Roswell H.	Wibaux	Wibaux	Republican
•Balgord, Oscar P.	Lavina	Golden Valley	Republican
Beley, Ward H.	Harlowton	Wheatland	Democrat
Bovey, Charles A.	P. O. Box 1653, Great Falls	Cascade	Democrat
•Brenner, J. S.	Grant	Beaverhead	Republican
Brownfield, Ben	Hammond	Carter	Republican
•Carney, John E. "Ed"	Scobey	Daniels	Democrat
•Clark, Earl E.	Roundup	Musselshell	Democrat
Cole, Kenneth	Winnett	Petroleum	Republican
Cotton, Robert S.	Glasgow	Valley	Democrat
Cumming, Hugh C.	Drummond	Granite	Democrat
Dussault, Edward T.	Western Bank Bldg., Missoula	Missoula	Democrat
•Durkee, Robert A.	1—5th St., Havre	Hill	Democrat
Goodwin, Lester C.	Townsend	Broadwater	Democrat
•Grandey, Charles W.	Terry	Prairie	Republican
•Grant, R. A. "Ray"	1502 Pleasant St., Miles City	Custer	Democrat
Groff, William A.	Victor	Ravalli	Democrat
•Hagenston, A. S.	216 Slocum, Glendive	Dawson	Democrat
Harken, R. C.	Forsyth	Rosebud	Independent
Hibbs, Rex	15 Valley Dr., Billings	Yellowstone	Republican
•Hofland, J. M.	Circle	McCone	Democrat
•James, David F.	Joplin	Liberty	Democrat
•Keister, Earl C.	Conrad	Pondera	Democrat
Keller, Webster	Fishtail	Stillwater	Democrat
LaCombe, C. E.	Superior	Mineral	Democrat
•Lehrkind, Carl, Jr.	610 S. Willson, Bozeman	Gallatin	Democrat
•Mackay, William R.	Roscoe	Carbon	Republican
•Mahoney, Charles H.	Jordan	Garfield	Republican
Mahoney, Eugene H.	Thompson Falls	Sanders	Democrat
•Manning, Dave M.	Hysham	Treasure	Democrat
†Mannix, William T. J. "Ted"	708 Milwaukee Ave., Deer Lodge	Powell	Republican
•McDonnell, A. Ronald	Big Timber	Sweetgrass	Republican
McGowan, Gordon	Highwood	Chouteau	Democrat
McKenna, George S.	Geyser	Judith Basin	Democrat
McKenna, James E.	Bank-Electric Bldg., Lewistown	Fergus	Democrat
Michels, Lloyd J.	Medicine Lake	Sheridan	Democrat
•Minette, Carl P.	Cut Bank	Glacier	Democrat
Morrow, Donald J.	Baker	Fallon	Democrat
•Nees, Stanley R.	Poplar	Roosevelt	Democrat
•Nixon, Richard	Hogeland	Blaine	Democrat
Reardon, Frank D.	801 Maryland, Butte	Silver Bow	Democrat
Rice, Paul R.	Pendroy	Teton	Democrat
Rieder, Arnold	Boulder	Jefferson	Democrat
•Ringling, Paul T.	White Sulphur Springs	Meagher	Democrat
•Robinson, Fred L.	Malta	Phillips	Republican
•Ruane, Michael E.	620 W. 4th, Anaconda	Deer Lodge	Democrat
Sagunsky, Walter G.	Sheridan	Madison	Republican
•Scofield, Charles L.	Broadus	Powder River	Republican
Siderius, George	Somers Stage, Kalispell	Flathead	Democrat
•Smith, J. Miller	730 8th Ave., Helena	Lewis and Clark	Republican
•Spear, W. B.	Kirby	Big Horn	Republican
•Stein, Ben	Shields Route, Livingston	Park	Democrat
•Streeter, Bertha E.	E. Lake Shore, Bigfork	Lake	Republican
Thiessen, C. R.	Lambert	Richland	Democrat
Wilson, George W.	Shelby	Toole	Democrat

•Holdover Senator.
†Elected to succeed Senator Don F. Valiton, resigned, holdover.

House of Representatives

NAME	RESIDENCE	COUNTY	POLITICS
Aasheim, Magnus	Antelope	Sheridan	Democrat
Abel, Keith C.	432 12th Ave., Havre	Hill	Democrat
Anderson, Jerome	2806 Hoover Lane, Billings	Yellowstone	Republican
Angstman, Jess L.	Masonic Temple Bldg., Havre	Hill	Democrat
Babcock, Tim M.	2530 Augusta Lane, Billings	Yellowstone	Republican
Bardanouve, Francis	Harlem	Blaine	Democrat
Barnard, Lloyd	Saco	Valley	Democrat
Barnes, Phil H.	Big Horn	Treasure	Democrat
Barrett, Fred E.	Chester	Liberty	Democrat
Bashor, Leonard G.	Ferdig	Toole	Democrat
Battin, James F.	2228 Maple, Billings	Yellowstone	Republican
Bentz, C. C.	Ekalaka	Carter	Republican
Bradford, Truman G.	1st Nat'l Bank Bldg., Great Falls	Cascade	Democrat
Broeder, Fred O.	Route 4, Kalispell	Flathead	Republican
Casey, Joseph T.	413 Broadway, Helena	Lewis & Clark	Democrat
Cavan, John J., Jr.	1336 Ave. D., Billings	Yellowstone	Republican
Cerovski, Charles	110 2nd Ave. S., Lewistown	Fergus	Democrat
Clowes, Homer J.	338 5th Ave. So., Glasgow	Valley	Democrat
Corcoran, Dan H.	Ryegate	Golden Valley	Republican
Curry, Luke F.	404 6th Ave. N., Great Falls	Cascade	Democrat
Daniels, M. K.	101 N. Main, Deer Lodge	Powell	Democrat
Devier, John R.	C. B. Route, Glendive	Dawson	Democrat
DeWolfe, Percy	Babb	Glacier	Democrat
Elting, A. W. "Andy"	Prima Vista, Miles City	Custer	Independent
Emmons, John M.	1813 W. Park, Anaconda	Deer Lodge	Democrat
Eskildsen, Leslie	Malta	Phillips	Democrat
Felt, James R.	303 Park Hill Dr., Billings	Yellowstone	Republican
Fjare, Orvin B.	Big Timber	Sweet Grass	Republican
Fladager, Milton W.	Peerless	Daniels	Republican
Gerard, Sumner	Ennis	Madison	Republican
Gilfeather, P. J.	Ford Building, Great Falls	Cascade	Democrat
Gill, Henry L.	Thompson Falls	Sanders	Democrat
Glancy, William J.	Roundup	Musselshell	Democrat
Gleed, George E.	815 S. Pacific, Dillon	Beaverhead	Republican
Gunderson, Harold O.	800 34th N., Great Falls	Cascade	Democrat
Haines, H. H.	Terry	Prairie	Republican
Haines, Tom	9 Janice Dr., Missoula	Missoula	Republican
Hanks, Virgil	Star Route, Gallatin Gateway	Gallatin	Democrat
Harball, Charles H.	Polson	Lake	Democrat
Hawks, Clyde L.	St. Xavier	Big Horn	Republican
Healy, John V.	709 E. Galena, Butte	Silver Bow	Democrat
Helding, Oscar	937 S. 5th St. W., Missoula	Missoula	Democrat
Higham, Weldon O.	Belfry	Carbon	Republican
Holecek, Joseph F.	301 Pine St., Lewistown	Fergus	Democrat
Holtz, Ronald W.	Floweree	Cascade	Democrat
Howard, George T.	408 E. Broadway, Missoula	Missoula	Republican
Jardine, John H.	Whitehall	Jefferson	Democrat
Jensen, Arthur N.	Superior	Mineral	Democrat
Karlberg, John	304 So. Davis St., Missoula	Missoula	Democrat
Kiff, Claude	Ringling	Meagher	Republican
Kolar, Ed L.	Geyser	Judith Basin	Republican
Kvaalen, Oscar S.	Lambert	Richland	Republican
Langston, Edgar	Harlowton	Wheatland	Democrat
Lees, Curtis E.	2704 Lyndale Lane, Billings	Yellowstone	Democrat
Leuthold, John H.	Molt	Stillwater	Republican
Loman, Ray M.	Ronan	Lake	Republican
Loughran, Mike	828 W. Quartz, Butte	Silver Bow	Democrat
MacDonald, John J.	Jordan	Garfield	Democrat
McGaffick, George	31 E. Lyndale, Helena	Lewis & Clark	Democrat
McGarvey, Dale L.	1025 3rd Ave. E., Kalispell	Flathead	Democrat

HOUSE OF REPRESENTATIVES — (Continued)

Names	RESIDENCE	COUNTY	POLITICS
McNally, Owen P.	910 E. 6th St., Anaconda	Deer Lodge	Ind.-Demo.
McOmber, W. Gordon	Fairfield	Teton	Democrat
Mernin, Henry F.	1305 Silver Bow Homes, Butte	Silver Bow	Democrat
Morrison, Dr. Geo. A.	2108 3rd Ave. No., Great Falls	Cascade	Democrat
Moudree, Herman L.	Toston	Broadwater	Democrat
Nees, H. R. "Ike"	Rosebud	Rosebud	Democrat
Nelstead, Ted E.	118 N. Merriam, Miles City	Custer	Republican
Nichols, Norris	Stevensville	Ravalli	Republican
Page, Mrs. Dorothy M. "Dolly"	Philipsburg	Granite	Democrat
Page, Winfield E.	507 North Ave. E., Missoula	Missoula	Republican
Parker, Cecil C.	Valier	Pondera	Democrat
Paulsen, Harold L.	1114 Prospect, Helena	Lewis & Clark	Republican
Picard, Edward R. "Eddie"	1915 S. Idaho, Butte	Silver Bow	Democrat
Powell, Lisle D.	Biddle	Powder River	Republican
Powers, Maurice	37 W. Copper, Butte	Silver Bow	Democrat
Raundal, Robert S.	Winnett	Petroleum	Democrat
Reeder, Harrison	Route 1, Bozeman	Gallatin	Democrat
Regan, Leonard D.	2805 3rd Ave. N., Great Falls	Cascade	Democrat
Reinecke, Fred W.	Wibaux	Wibaux	Republican
Rindy, Duane	Baker	Fallon	Democrat
Sales, Walter L.	311 S. Willson, Bozeman	Gallatin	Republican
Schwinden, Ted	Wolf Point	Roosevelt	Democrat
Shea, Dennis M.	2615 Phillips St., Butte	Silver Bow	Democrat
Sheehy, John C.	1041 Poly Dr., Billings	Yellowstone	Democrat
Shelden, Arthur H.	Route 1, Libby	Lincoln	Democrat
Sheldon, Clarence E.	Holt Stage, Kalispell	Flathead	Democrat
Strnisha, Joseph	Rt. 1, Box 97, Hamilton	Ravalli	Democrat
Tonner, L. P. "Cy"	Martin City	Flathead	Democrat
Walton, Clarence E.	Wilsall	Park	Republican
Wayrynen, R. J. "Ray"	133 E. Broadway, Butte	Silver Bow	Democrat
Wold, John O., Jr.	Laurel	Yellowstone	Democrat
Wood, James, Jr.	Loma	Chouteau	Democrat
Woodring, Ralph	Shields Route, Livingston	Park	Democrat
Wright, J. Stewart	Weldon Route, Wolf Point	McCone	Republican

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36		67	An Act to Amend Section 26-104 of the Revised Codes of the State of Montana, 1947, Relating to Powers and Duties of the State Fish and Game Commission; to Provide for the Hunting of Deer, Antelope and Elk by Bow and Arrow Hunters; to Amend Section 26-202.1 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 100 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, Relating to Fish and Game Licenses, Fees, Classification of Licenses, Fees and Powers Under Licenses; to Provide for the Issuance of Licenses to Bow and Arrow Hunters to Hunt and Possess Deer, Antelope and Elk; and to Repeal All Acts and Parts of Acts in Conflict Herewith.	68
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38		394	An Act to Amend Section 11-966 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 34 of the Montana Session Laws of 1955, Pertaining to the Purposes for Which Indebtedness May Be Incurred by Cities and Towns, Determining the Extent of Indebtedness for Such Purposes; Providing That no Money May Be Borrowed on Bonds Until Submitted to and Approved by a Majority Vote of the Taxpayers Affected Thereby and Including in Said Section the Purpose "Sewage Treatment and Disposal Plants"; Repealing All Acts and Parts of Acts in Conflict Herewith.	78
39		202	An Act to Amend Section 75-2901, Revised Codes of Montana, 1947, as Amended by Chapter 53, Laws of 1955, Relating to Compulsory School Attendance; and Repealing All Acts and Parts of Acts in Conflict Herewith.	81
40		266	An Act to Amend Section 129, Chapter 263, Laws of Montana, 1955, Relating to Audible and Visual Signals on Vehicles by Substituting the Word "Red" in Place of the Word "Amber" With Reference to the Color of Alternating Flashing Lights on Front of School Busses; by Repealing All Acts or Parts of Acts in Conflict Herewith.	83
41	Sen. Sub. for H.B. 36		An Act to Amend Section 76-117, Revised Codes of Montana, 1947, Replacement Volume Five (5), Relating to the Change of District Name of Soil Conservation Districts by Providing for the Division or Combination or Division and Combination of Soil Conservation Districts; Providing a Repealng Clause.	84
42		300	An Act to Amend Section 40-1302, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 224, Laws of Montana, 1957, Relating to License Fees of Insurance Corporations, Associations, and Societies; Providing for Repeal of All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	86
43		327	An Act to Provide for Retaliation Against the Insurers of Any Other State or Foreign Country on Account of Taxes, Licenses and Other Fees, Fines, Penalties, Deposit Requirements or Other Material Obligations Which Are or Would Be Imposed Upon Montana Insurers, Their Agents or Representatives, Which Are in Excess of Such Taxes, Licenses and Other Fees, Fines, Penalties, Deposit Requirements or Other Obligations Imposed Upon Similar Insurers or Agents or Representatives of such insurers of Such Other State or Country Under the Statutes of This State; Providing for the Inclusion of Taxes, Licenses or Other Fees Imposed by Any City, County or Other Political Subdivision or Agency of Such Other State or Country to Be Within the Purview of This Act; Providing for the exclusion from the Operation of this Act Personal Income Taxes, Ad Valorem Taxes on Real or Personal Property, Special Purpose Obligations or Assessments Imposed by Another State in Connection With Particular Kinds of Insurance Other Than Property Insurance; Defining Domicile of an Alien Insurer for the Purpose of This Act, Other Than Insurers Formed Under the Laws of Canada; Providing for an Effective Date of This Act; and Specifically Repealing Section 40-1428, Revised Codes of Montana, 1947.	87
44		146	An Act to Amend Section 26-332 of the Revised Codes of	

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			Montana, 1947, Relating to Restrictions in the Manner of Taking Fish; Containing a Repealing Clause, and Effective Date.	90
45		278	An Act to Amend Section 28, Chapter 242, Laws of 1957, Relating to the Time and Manner of Levying and Collecting Taxes for the Payment of Bonded Indebtedness and Other Claims and Expenses of County Water Districts; Providing That Such Taxes Shall Be a Lien Upon the Lot or Parcel of Property Within the District to the Extent of Its Assessment; and Repealing All Acts or Parts of Acts in Conflict Herewith.	91
46		17	An Act to Authorize in Certain Instances the Boards of County Commissioners to Levy an Additional Tax of Not to Exceed Six (6) Mills for the County Poor Funds; and Providing for an Effective Date and a Repealing Clause.	92
47	47		An Act to Amend Section 71-509 of the Revised Codes of Montana, 1947, Relating to Periodic Reconsideration and Changes in Amount of Aid to Dependent Children Assistance, to Provide for an Investigation of the Manner in Which Assistance Payments Are Being Utilized by the Recipient, and Providing for the appointment by the District Court of the Recipient as Guardian of the Assistance Grant in Behalf of the Child or Children, to Insure Use of Such Grants for the Needs of the Child or Children and Providing for Rendering Accounts by Such Guardian to the Court; Providing for the Termination of Such Guardianship; Providing an Effective Date, and Repealing All Acts and Parts of Acts in Conflict.	93
48	55		An Act to Amend Section 11-2008, Revised Codes of Montana, 1947, Relating to Fire Districts in Unincorporated Territory, Towns and Villages, as Amended by Chapter 75 of the Session Laws of 1953 and by Chapter 75 of the Session Laws of 1957 and Containing a Repealing Clause.	95
49	157		An Act to Amend Initiative Measure No. 54 Adopted by the Vote of the Legal Electors of the State of Montana at the Regular General Election Held in the State of Montana on November 7, 1950, as Amended by Chapter 123, Laws of 1953, and Chapter 45, Laws of 1957, Relating to Section 6 Thereof, by Providing a New Date for Applications for Payment of the Honorarium to Be December 31, 1959, Repealing All Acts and Parts of Acts in Conflict Herewith, and Containing an Effective Date.	99
50	15		An Act to Amend Section 23-1808, Revised Codes of Montana, 1947, Relating to the Issuance of Certificates of Election by the Clerk of the Board of County Commissioners; Providing When Said Clerk Shall Make Out and Deliver Certificates of Election to Elected and Appointed Persons (Except Elected District Judges) Signed by Him and Authenticated With the Seal of the Board of County Commissioners; and Providing That Said Certificates Shall Contain Notice That the Official Bond of the Elected or Appointed Official Must be Filed Within a Prescribed Period of Time.	100
51		166	An Act to Amend Section 31-125, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 79, Laws of Montana, 1957, Relating to the Licensing of Operators and Chauffeurs; Providing That Persons Who Are Engaged in a Gainful Occupation or Business Enterprise or Persons Who Have Resided in Montana for a Period Exceeding Ninety (90) Days Must Be Licensed to Drive Motor Vehicles Under the Laws of This State; Repealing All Acts or Parts of Acts in Conflict Herewith.	100
52		218	An Act to Repeal Section 94-3573, Revised Codes of Montana, 1947, Which Prohibits the Showing or Exhibition of Any Scenes or Pictures Depicting Burglaries, Train Robberies or Other Acts Which Would Constitute a Felony; Providing for an Effective Date.	102
53		276	An Act to Provide That the Board of County Commissioners May Levy a Special Tax Not to Exceed Two (2) Mills on the Dollar of the Taxable Property of the County for the Purpose of Constructing, Maintaining and Repairing Public Ferries; and Providing for a Repealing Clause.	102
54		Sub. 385	An Act Amending Section 69-1512 of the Revised Codes of Montana of 1947 Relating to Fees for Inspection of	

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			Boilers and for Examination of Applicants for Engineer's License; and Amending Section 69-1516 of the Revised Codes of Montana of 1947 Relating to Renewal of Certificates of License to Engineers; and Repealing All Acts and Parts of Acts in Conflict Herewith and Providing an Effective Date.	103
55		517	An Act to Provide for the Repeal of Sections 79-1301, 79-1302, 79-1303, 79-1304, 79-1305, 79-1306, 79-1307 and 79-1308 of the Revised Codes of Montana, 1947, Relating to the Creation, Compensation, Powers, Meetings and Appropriations of the War Planning and Construction Reserve Fund and Commission.	105
56		122	An Act to Amend Section 94-201-6, of the Revised Codes of Montana of 1947, Relating to the Testimony Adduced Before a Coroner's Jury, by Requiring a Transcript of the Proceedings Therein and Providing for Payment of Claims Therefor; and Repealing All Acts and Parts of Acts in Conflict Herewith.	105
57		203	An Act to Amend Section 94-4106 of the Revised Codes of Montana, 1947, Prohibiting Lewd and Lascivious Acts Upon or With the Body of Children Under the Age of Sixteen (16) Years.	106
58		47	An Act to Amend Section 80-705, Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 61 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana, 1957, Relating to the Warden of the State Prison, His Appointment, Salary and Removal; Providing for the Approval of Any Such Appointment by the Board of State Prison Commissioners; Providing the Qualification Requirements of the Warden; Increasing the Warden's Salary and Providing That He Shall Receive Full Maintenance While Employed; Providing for the Service of Notice of Charges Against Him at Least Ten (10) Days Prior to the Day Set for Hearing; Providing for a Continuous Term of Employment During Good Behavior, and for Compulsory Retirement at the Age of Sixty-five (65), and for Retention Beyond That Age by the Board of State Prison Commissioners, on a Year to Year Basis; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for the Effective Date of the Act.	107
59	S.B. 141		An Act to Amend Section 90-140, Revised Codes of Montana, 1947, Relating to the Regulation of Milk Containers, by Including Therein the Half Pint and One-quarter Pint; Containing a Repealing Clause.	109
60		163	An Act Authorizing the Establishment of Temporary Roadblocks on the Highways of the State of Montana to Identify Drivers and Apprehend Law Violators; by Defining a Temporary Roadblock and the Purpose for Which It May Be Used; by Providing Minimum Requirements in Establishing Temporary Roadblocks and Other Matters Properly Relating Thereto; by Fixing Penalty for Violation of Act; by Repealing All Acts or Parts of Acts in Conflict Herewith.	110
61		70	An Act to Provide for the Disqualification of District Judges in Criminal Actions or Proceedings; Prescribing the Grounds and Procedure for Disqualification; Providing for Assumption of Jurisdiction by Other District Judges in Event of Disqualification; and Repealing All Other Acts and Parts of Acts in Conflict Herewith.	112
62		Sub. 60	An Act to Amend Section 53-106.2 of the Revised Codes of Montana, 1947, as Enacted by the Thirty-fifth Legislalative Assembly of the State of Montana of 1957, Relating to Special Motor Vehicle License Plates for Amateur Radio Operators, to Provide for Written Application, Proof of Licensing, and Issuance of Licenses in Pairs; to Amend Section 53-106.3 of the Revised Codes of Montana, 1947, as Enacted by the Legislative Assembly Aforesaid, Relating to Issuance of Said License, Application and Additional Fee, to Provide for Issuance in Pairs and Increased Fee; to Amend Section 53-106.4 of the Revised Codes of Montana, 1947, as enacted by the Legislative Assembly Aforesaid, Relating to Rules and Regulations and Limit of Number of Plates, to Provide for Issuance of Plates in Pairs; to Amend Section 53-106.6 of the Revised Codes of Montana, 1947, as Enacted by the Aforesaid Legislative Assembly, Relating to Affixing Said Plates to Cars, Sale or Transfer of Auto	

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			and Expiration or Revocation, to Provide That Said Plates Shall Replace the Regular Motor Vehicle License Plate on the Vehicle and Regulations in the Event of Transfer of Auto or Expiration of Amateur License; Providing a Repealing Clause and an Effective Date.	113
63		129	An Act to Amend Section 72-150, Revised Codes of Montana, 1947, Relating to Safety Regulatory Power of the Montana Railroad Commission; Providing Authority to Make Health and Safety Rules and Regulations Relating to Sanitation and Shelter; Repealing Conflicting Acts.	116
64		156	An Act to Amend Section 23-304 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 92 of the Montana Session Laws of 1949, and to Amend Section 23-515 of the Revised Codes of Montana, 1947, Both Relating to Poll Books and Precinct Registers, to Clearly Distinguish Between Poll Books and Precinct Registers; to Amend Section 23-519 of the Revised Codes of Montana, 1947, Relating to Compensation of County Clerks on Preparing Precinct Registers to Provide for the Same Clarification; to Amend Section 23-527, of the Revised Codes of Montana, 1947, Relating to Omissions of Names from Poll Books, to Provide for the Same Clarification; to Amend Section 23-704 of the Revised Codes of Montana, 1947, Relating to Furnishing of Blanks by County Commissioners, Providing for Clarification of Terms; to Amend Section 23-908 of the Revised Codes of Montana, 1947, Relating to Inclosing and Sealing Poll Books and Tally Sheets, to Include Precinct Registers; to Amend Section 23-1210 of the Revised Codes of Montana, 1947, Relating to Method of Voting, to Clarify Terms Used; to Amend Section 23-1219 of the Revised Codes of Montana, 1947, Relating to Lists of Voters, to Clarify Terms Used; to Amend Section 23-1311 of the Revised Codes of Montana, 1947, Relating to Duty of Election Judges, to Clarify Terms Used; to Amend Section 23-1313 of the Revised Codes of Montana, 1947, Relating to Envelopes Containing Ballots Providing Clarification of Terms; to Amend Section 23-1320 of the Revised Codes of Montana, 1947, Relating to the Duty of Elector, to Provide for Clarification of Terms; to Amend Section 23-1702, of the Revised Codes of Montana, 1947, Relating to Mode of Canvassing Returns, to Clarify Language Used Therein; to Amend Section 23-1703 of the Revised Codes of Montana, 1947, Relating to Excessive Ballots, to Clarify Language Used Therein; to Amend Section 23-1709 of the Revised Codes of Montana, 1947, Relating to Election Returns by Judges, to Clarify Language Used Therein; to Amend Section 23-1714 of the Revised Codes of Montana, 1947, Relating to Disposition of Returns, and Section 23-1715 of the Revised Codes of Montana, 1947, Relating to Place of Filing Records, to Clarify Language Used Therein; to Amend Section 11-2310 of the Revised Codes of Montana, 1947, Relating to Registration of Electors in Cities and Towns for Bond Elections, to Clarify Language Used Therein; to Amend Section 16-2026 of the Revised Codes of Montana, 1947, Relating to Who Are Entitled to Vote in County Bond Elections, to Provide for Clarification of Language Used Therein; to Amend Section 75-3912 of the Revised Codes of Montana, 1947, Relating to School District Bond Elections as to Electors and Poll Books, to Clarify the Language Used Therein; Clarifications Herein Relate to Proper Reference to the Various Lists, Books and Registers in the Above Sections; and Repealing All Acts or Parts of Acts in Conflict Herewith.	117
65		174	An Act to Amend Section 46-609, Revised Codes of Montana, 1947, Relating to the Fees for Recording Marks and Brands by Increasing Said Fees; Containing a Repealing Clause.	131
66		350	An Act to Amend Section 25-605 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 22 of the Montana Session Laws of 1957, Relating to Salaries of County Officers, to Provide for Two Additional Categories Under the Taxable Valuation Basis for Setting Salaries; and Containing a Repealing Clause.	132
67		173	An Act to Amend Section 46-504, Revised Codes of Montana, 1947, Relating to the Licensing and Inspection of Meat by Eliminating the Words "or for the Use of Himself and Three (3) Neighbors"; Containing a Repealing Clause and Effective Date.	133

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68		277	An Act to Amend Section 75-1303, Revised Codes of Montana, 1947, Relating to the Official Staff of the Superintendent of Public Instruction; Providing for the Appointment of Assistants; Providing for the Creation of a Department of Public Instruction; and Repealing All Acts and Parts of Acts in Conflict Herewith.	134
69	200		An Act Requiring the Labeling of All Containers of Paints, Varnishes, Roof Coatings and Other Protective and Decorative Materials Offered for Sale, Sold, or Shipped in Intrastate Transactions Within the State; Providing for the Inspection and Analysis of Paints, Varnishes, Roof Coatings and Other Protective and Decorative Materials by a Chief Chemist Designated by the Department of Agriculture; Providing for Penalties for Violation of This Act.	135
70	35		An Act to Amend Section 75-4230, Revised Codes of Montana, 1947, Relating to the Attendance of High School Pupils Outside of County of Residence and Providing for an Increase in Tuition Rates for Children Attending High Schools in Counties Other Than the Counties of the Children's Residence and Repealing All Acts and Parts of Acts in Conflict Herewith.	137
71		45	An Act to Amend Section 80-706, Revised Codes of Montana, 1947, Relating to the Duties of the Warden; Providing That Except as Provided by Law, the Warden Has Power to Appoint and Remove All Necessary Guards and Assistants, in and About the Prison, Subject to the Approval of the Boards as to the Number Appointed; and Repealing All Acts or Parts of Acts in Conflict Herewith.	140
72		519	An Act to Repeal Sections 82-2101, 82-2102, 82-2103, 82-2104, 82-2105, 82-2106, 82-2107, 82-2108, 82-2109, 82-2110, and 82-2111 of the Revised Codes of Montana, 1947, Relating to the Establishment of the Montana Commission on Intergovernmental Cooperation, Its Duties, Functions, Membership, Reports and Compensation; to Provide the Legislative Council Shall Be a Member of the Commission on Interstate Cooperation; to Provide That the State of Montana Shall Be a Member of the Council of State Governments; to Provide That the Council of State Governments Is to Be a Joint Governmental Agency of the State of Montana and of Other States Which Cooperate Through It; to Provide That the Legislative Council Shall Establish Such Delegations and Committees as May Be Advisable, Providing That Members of Said Delegations and Committees Shall Serve Without Pay, But May Be Reimbursed for Expenses as Provided by Law; and Providing a Repealing Clause.	140
73		235	An Act to Amend Sections 38-809 and 38-812. Revised Codes of Montana, 1947; and to Add to the Revised Codes of Montana a Section to Be Numbered 38-809.1, to Provide for an Increase in the Amount Payable by Persons Committed to the Montana State Training School and Hospital or by the Parents or Relatives Legally Liable for the Support of Such Persons; to Provide for the Making of Orders by Boards of County Commissioners and District Courts for Payment of Such Amounts; to Provide a Method of Changing Such Orders; and for the Collection of Such Payments; to Provide for a Review of Amounts Payable Under Existing Orders of Commitment; and Providing for an Effective Date; and Containing a Repealing Clause.	142
74		133	An Act to Amend Section 75-2006 Relating to Increased Services of the State Correspondence School and Containing a Repealing Clause.	145
75		198	An Act to Amend Section 93-8007, Revised Codes of Montana, 1947, Providing for a Stay of Execution in Appeals from Judgments or Orders Directing the Payment of Money; Providing for an Undertaking on Appeal from Judgments and Orders Directing the Payment of Money, and Prescribing the Provisions and Contents thereof.	146
76		127	An Act to Amend Section 66-1508 of the Revised Codes of Montana, 1947, Relating to the Licensing of Pharmacies and Stores Other Than a Pharmacy; Providing an Increase in the Annual Fee from Three Dollars ($3.00) to Five Dollars ($5.00); Providing for Authorized Licensed Stores Other Than Pharmacies to Sell, Deliver or Give Away Certain Household Medicinal Drugs; Providing Penalties for Violation of the Act; Providing for Revocation of Said Licenses.	148

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77		225	An Act to Amend Section 11-2008 (a), Revised Codes of Montana, 1947, as Amended by Chapter 75, Laws of 1957, Relating to Fire Protection Districts by Authorizing County Commissioners to Contract for Private Fire Service Protection and That Such Contracts Shall Be on the Basis of an Independent Contractor; and to Amend Section 11-2010 (a), Revised Codes of Montana, 1947, as Amended by Chapter 75, Laws of 1953, Relating to Fire District Trustees by Authorizing County Commissioners to Contract With a City, Town or Private Fire Company to Furnish Fire Protection Within the District; Containing a Repealing Clause.	149
78	139		An Act to Amend Section 90-129, Revised Codes of Montana, 1947, as Amended by Chapter 89 of the Session Laws of the Thirty-fifth Legislative Assembly of Montana, 1957, Relating to the Inspection of Weighing and Measuring Devices by Providing That the Removal of Any State Seal or Rejection Notice on Any Measuring Device Shall Be Prima Facie Evidence of the Guilt of the Defendant; Containing a Repealing Clause.	154
79	50		An Act to Amend Section 75-3938, Revised Codes of Montana, 1947, Providing for the Qualifications of Voters in an Election for the Issuance of Bonds of Any School District, Town or City, and Providing for an Effective Date.	156
80	128		An Act to Provide for the Coloration of Wheat, Oats, Rye or Barley When Being Treated With an Injurious or Toxic Substance or Chemical, Providing a Penalty; and Repealing All Acts or Parts of Acts in Conflict Herewith.	157
81	172		An Act to Repeal Sections 3-1801 Through and Including 3-1807, Revised Codes of Montana, 1947, Relating to the Licensing of Hay Dealers; Providing an Effective Date of This Act.	157
82	171		An Act Providing for a Section to Be Known as Section 3-2011 and Authorizing the Commissioner of Agriculture to Issue Stop Sale, Use or Removal Orders on Commercial Feed; Providing a Penalty for Violation of Any Order and Containing a Repealing Clause.	158
83	73		An Act to Amend Section 53-422, Revised Codes of Montana, 1947, Relating to Determination of Security Required—Suspension of License and Registration—Exceptions—Liability Insurance; Providing That the Motor Vehicle Registrations of Vehicles Involved in Accidents Shall Not Be Suspended on Co-owned Vehicles; and to Amend Section 53-423, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 187, Laws of Montana, 1957, Relating to Exceptions to Security Requirements; Providing That the Operator or the Owner of a Legally-Stopped Vehicle Shall Be Excepted from Security Requirements; Repealing All Acts or Parts of Acts in Conflict Herewith.	159
84	71		An Act to Amend Section 31-155, Revised Codes of Montana, 1947, Relating to Additional Penalty for Persons Who Drive While Privilege to Do So Is Suspended and Prohibiting Board from Issuing License to Person Whose License Is Revoked; Providing for Additional Like Period of Revocation for Persons Convicted of Driving While Privilege to Do So Is Revoked; Repealing All Acts or Parts of Acts in Conflict Herewith.	162
85	115		An Act to Amend Section 59-704 of the Revised Codes of Montana, 1947, as Amended, Relating to the Distribution of Public Reports, to Provide for a Minimum Distribution of Four (4) Mimeographed or Carbon Copies of Reports to the Librarian of the Historical Society of Montana, to Provide for a Minimum Distribution of Forty (40) Copies of Printed Reports Furnished by State Institutions, Offices and Departments Presenting an Annual or Biennial Report to the Librarian of the State Historical Society; to Provide for the Transmittal to the United States Library of Congress Two (2) Copies of Each Report by the Historical Society of Montana, and Containing a Repealing Clause.	163
86	32		An Act to Amend Section 93-1401, Revised Codes of Montana, 1947, as Amended by Chapter 133, Laws of the Thirty-first Legislative Assembly of the State of Montana, 1949, Relating to Jury Lists, by Whom and When to Be Made, and Repealing All Acts and Parts of Acts in Conflict Herewith.	165

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87	10		An Act to Amend Section 23-1813, of the Revised Codes of Montana, 1947, Relating to Transmittal of Election Returns by Clerks of County Commissioners to the Secretary of the State, to Provide That Said Transmittal of Said Election Returns Shall Be Accomplished by Certified Mail; and Providing a Repealing Clause.	165
88	11		An Act to Amend Section 93-1509 of the Revised Codes of Montana, 1947, Relating to County Sheriffs Summoning Jurors, to Provide That Notice Shall Be Accomplished by Certified Mail; and Providing a Repealing Clause.	166
89	12		An Act to Amend Section 84-710 of the Revised Codes of Montana, 1947, Relating to the Sending of Notice of Intention by the State Board of Equalization to Change Assessment of Property, to Provide That the State Board of Equalization Shall Send Said Notice by Certified Mail; and Providing a Repealing Clause.	167
90	91		An Act to Amend Section 28-105 of the Revised Codes of Montana, 1947, Relating to the State Board of Forestry; to Provide for the Creation of Organized Forest Fire Protection Districts; and to Provide Through the State Forester for Forest Fire Protection by the State Forester's Organization.	168
91	86		An Act to Amend Section 28-109 of the Revised Codes of Montana, 1947, as Amended, Relating to the State Board of Forestry; to Provide for the Classification of Lands for Forest Fire Protection Purposes; and to Provide for the Duties of the Owners of Classified Forest Land.	169
92	90		An Act to Amend Section 28-110 of the Revised Codes of Montana, 1947, Relating to Forest Fire Protection by the State Board of Forestry and Providing for Compliance of Forest Fire Laws; Providing for the Designation of Boundaries of Forest Fire Protection Districts.	170
93	89		An Act to Amend Section 28-103 of the Revised Codes of Montana, 1947, Relating to Fire Protection; to Provide for the Definition of Forest Land, for the Purposes of This Act; to Allow the State Forester to Expand the Forest Fire Season; and to Provide for the Creation of Protection Zones.	171
94	88		An Act to Amend Section 28-104 of the Revised Codes of Montana, 1947, Relating to Land or Timber Owner's Responsibility to Provide for Conservation and Fire Protection Measures Being Applicable to Noncommercial and Nonmerchantable Timber.	172
95	87		An Act to Amend Section 28-111 of the Revised Codes of Montana, 1947, Relating to Forest Fire Protection; and to Provide for the Determination of the Cost of Forest Fire Protection and Certification.	173
96	134		An Act to Amend Section 26-104, Revised Codes of Montana, 1947, as Amended by Chapter 40, Session Laws of 1951, and Chapter 157, Session Laws of 1955, and Chapter 151, Session Laws of 1957, Relating to the Powers and Duties of the State Fish and Game Commission and Adding Subsection (26) Thereto, Providing for the Authority to Promulgate and Enforce Rules and Regulations Governing Recreational Uses of Public Fishing Reservoirs and Lakes Constructed by the Commission or on Reservoirs and Lakes in Operation Under Agreement With a Federal or State Agency or Private Owners; and Containing a Repealing Clause.	174
97	43		An Act to Amend Section 3, Chapter 44, Laws of Montana, 1953, as Amended by Section 4, Chapter 270, Laws of Montana, 1955, Relating to Federal-State Agreements Under the Social Security Act, to Provide That the Effective Date of Such Agreements May Be Retroactive to the Extent Permitted by the Social Security Act; to Amend Section 4, Chapter 44, Laws of Montana, 1953, as Amended by Section 6, Chapter 270, Laws of Montana, 1955, Relating to Plans for Coverage of Employees of Political Subdivisions and Providing for the Exclusion of Such Services Under such Plans; and to Amend Section 8, Chapter 44, Laws of Montana, 1953, as Amended by Section 10, Chapter 270, Laws of Montana, 1955, to Provide for the Removal of Teachers from Persons Excepted from the Act; and to Provide That Invalidity of a Part of This Act Shall Not Affect or Impair the Remainder, and to	

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			Provide That This Act Shall Become Effective Upon Its Passage and Approval, and to Repeal All Acts or Parts of Acts in Conflict Herewith.	175
98	199		An Act to Amend Section 32-1603, Revised Codes of Montana, 1947, Relating to the Duties of the Highway Commission, Requiring the Commission to Submit to the Legislature and the Governor a Biennial Report of Its Activities, and Repealing All Acts and Parts of Acts in Conflict Herewith.	180
99	36		An Act to Amend Section 75-1630, Revised Codes of Montana, 1947, Relating to the Transfer of School Funds and Providing for an Increase in Tuition Rates for Children Attending Elementary Schools in School Districts Other Than the Districts of the Children's Residence and Repealing All Acts and Parts of Acts in Conflict Herewith.	181
100	37		An Act to Amend Section 53-108, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 146, Laws of Montana, 1957, Relating to Renewal of Registration; by Providing That Vehicles May Be Operated Between January First and February Fifteenth Without Displaying the Current Registration Certificates; by Providing Temporary Windshield Stickers for Owners of Used Vehicles Whose Registration Certificates Are Being Processed Through the Office of the Registrar of Motor Vehicles; by Prohibiting the Sale or Purchase of More Than One (1) Temporary Windshield Sticker When Vehicle's Ownership Not Changed; by Providing a Three (3) Day Grace Period for Purchasers of New Motor Vehicles in Which to Make Application for Registration; by Providing It Shall Not Be a Violation of Any Law to Operate Such New Motor Vehicle on the Streets and Highways During Said Three (3) Day Period, If Such Purchaser Has in His Possession Satisfactory Evidence of Ownership; by Repealing All Acts or Parts of Acts in Conflict Herewith.	185
101	56		An Act to Repeal Sections 53-123 to 53-128, Inclusive, Revised Codes of Montana, 1947, Relating to Issuance of a License to Owners of Foreign-Licensed Vehicles Who Are in Montana as Tourists or for Recreational Travel Only and Relating to the Enforcement of Such Provisions.	187
102	48		An Act to Repeal Section 31-111, Revised Codes of Montana, 1947, Relating to Drivers Procuring Driver's License—Fees—Who Can Purchase.	188
103	166		An Act to Amend Section 53-617, Revised Codes of Montana, 1947, Relating to Sales Tax on New Passenger Vehicles; Providing That the State Highway Commission May Use Any Available Price List If the Manufacturer or Importer Fails to Furnish a Price List; Repealing All Acts and Parts of Acts in Conflict Herewith.	188
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168		364	An Act to Amend Section 75-1632, Revised Codes of Montana, 1947, Relating to Duties of Trustees of Schools; Providing for Amendment of Only Sub-section 24, Thereof, and Making Fee Sixty Dollars ($60.00) Per Day for Examinations, and Deleting Requirements for Payment of Transportation and Per Diem; Repealing All Acts and Parts of Acts in Conflict Herewith.	341
169		376	An Act to Amend Section 28-101 of the Revised Codes of Montana, 1947, Relating to state Board of Forestry to Provide for the Protection and Conservation of Forest Resources, Forest Range and Water, Regulation of Stream Flow, the Prevention of Forest Fires; to Strike the Restriction Against Payment of a Salary for the State Forester; and Containing a Repealing Clause.	346
170		402	An Act to Amend Section 92-827, Revised Codes of Montana, 1947, Relating to the Record of Proceeding Before the Industrial Accident Board and Providing for Furnishing a Copy Thereof to the Claimant Without Cost.	348
171		90	An Act Providing for a Section to Be Known as Section 11-2710 and Authorizing County Commissioners to Exercise Building and Zoning Regulatory Powers; Containing a Repealing Clause.	349

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173		120	An Act to Amend Section 79-1202, Revised Codes of Montana, 1947, as Amended by Chapter 118, Laws of Montana, 1957, Relating to the Investment of Moneys in the Long Term Investment Fund; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	351
174		273	An Act Relating to the Creation of a Sanitarians Registration Council, Appointed by the Montana State Board of Health; Providing Definitions of Terms; Manner of Registration of Sanitarians by Examination and Without Examination Under Certain Circumstances; Establishing Fees; Providing the Manner and Grounds for Revocation of Certificates by the Board of Registered Sanitarians; Providing Penalties for Practicing as a Registered Sanitarian Without a Certificate; Prescribing Minimum and Maximum Penalties for Violations of This Act and Conferring Jurisdiction Over All Prosecutions Hereunder Upon the District Court; Empowering the Sanitarians Registration Council to Issue Certificates of Registration to Sanitarians Registered by Another State; Providing the Manner of Review of Decisions of the Council and Manner of Service of Legal Papers Upon the Council; Directing That Unconstitutionality of a Part of This Act Shall Not Affect or Impair the Remainder; and Repealing All Acts or Parts of Acts in Conflict Herewith.	355
175		479	An Act to Amend Chapter 18, Title 84 of the Revised Codes of Montana, 1947, by Adding Thereto a New Section to Be Numbered 84-1802.1, and Providing for the Payment or the Credit and Setoff of the Tax Upon Gasoline in Storage on the Date of Increase or Decrease in the Rate of Tax Imposed on Gasoline, Providing That Power to Determine the Validity of Such Claims Shall Rest in the State Board of Eqalization; and Containing a Repealing Clause.	359
176		459	An Act to Amend Section 84-2004, Revised Codes of Montana as Amended by Chapter 220, Session Laws of 1957, Relating to Metalliferous Mines License Tax, Providing for an Effective Date and Repealing All Acts and Parts of Acts in Conflict Herewith.	360
177		348	An Act to Amend Section 87-148, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 160 of the Laws of 1953, as Amended by Section 9, Chapter 164, Laws of 1955, as Amended by Section 11, Chapter 171, Laws of 1957, Relating to Excluding from the Term "Employment" Covered by Said Act of Persons Performing Part-time Services for Churches, Charities, Benevolent, Fraternal, Nonprofit Societies and Like Associations as Defined in Section 15-1401, Revised Codes of Montana, 1947, Repealing All Acts in Conflict Herewith and Providing That This Act Be Effective from and After Its Passage and Approval.	362
178		480	An Act to Amend Section 87-148 of the Revised Codes of Montana, 1947, as Amended by Chapter 171, Laws of Montana, 1957; Excluding from the Term Employment, as Defined by the Unemployment Compensation Law, Services Performed by Certain Real Estate and Insurance Salesmen; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	368
179		Sub. 260	An Act Relating to the Creation of a Board of Control to Operate, Manage, Supervise and Maintain the Operations of One or More Irrigation Districts; Providing for Membership, Terms of Office, Bond, and Compensation; Providing for, and Deposit of Funds, Records and Inspection; Providing for Withdrawal of Districts, Allowing for the Hiring of a Manager or Managers; Purpose of This Act; and Providing for an Effective Date.	375
180		367	An Act to Amend Section 5-910, Revised Codes of Montana, 1947, Relating to Special Examination Fees to Be Paid to the State Examiner for Such Special Examinations; Repealing All Acts and Parts of Acts in Conflict Herewith.	380
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183		433	An Act to Amend Section 11-1919, Revised Codes of Montana, 1947, Relating to the Manner in Which the State Auditor of the State of Montana Shall Pay to the Fire Department Relief Association, Legally Organized and Existing in the Several Cities and Towns in the State of Montana, Their Respective Share of the Premium Taxes Collected from Insurers Authorized to Do Business in the State of Montana; Repealing All Acts and Parts of Acts in Conflict Herewith, and Providing for an Effective Date.	383
184		431	An Act to Amend Section 11-1918, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 22, Laws of Montana, 1955, Relating to Reports of Insurers Authorized to Do Business in the State of Montana; Providing for Reporting of the Fire Portion of the Direct Premiums, After Deducting Cancellations and Return Premiums, in Cities and Towns Having Organized Fire Departments and Fire Department Relief Associations, Repealing All Acts and Parts of Acts in Conflict Herewith, and Providing for an Effective Date of This Act.	385
185		430	An Act to Provide for Devises or Bequests to a Trust by Will When the Trust Is Amendable or Revocable, or Both, or Because the Trust Was Amended After the Date of Execution of the Will; to Provide That the Property so Devised or Bequeathed Shall Not Be Deemed to be Held Under a Testamentary Trust, Unless the Will Provides Otherwise; and Containing a Repealing Clause.	386
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192		27	An Act to Amend Section 27-403 of the Revised Codes of Montana of 1947, Relating to Definitions of Words and Terms Used in the Montana Milk Control Law, by Specifying Two Classes of Milk for the Purposes of the Act and the Particular Products to Be Included in Each Class; Section 27-404 of the Revised Codes of Montana of 1947, as Amended by Chapter 249 of the Laws of 1957, Relating to Membership of the Milk Control Board, Compensation of Members, and the Calling of Meetings; by Providing for a Five (5) Member Board to Be Appointed by the Governor, Five (5) Year Terms of Office, Per Diem for Expenses, and Call of Meetings by the Chairman or a Majority of the Board; Section 27-405 of the Revised Codes of Montana of 1947, Relating to the General Powers of the Milk Control Board, by Providing the Milk Control Board Shall Have Power to Take Depositions at Its Offices, Agents of the Board May Call and Give Notice of Price Hearings When the Board Is Not in Session, and the Method Whereby Subpoenas Issued by the Board May Be Enforced by District Courts; Section 27-406 of the Revised Codes of Montana of 1947, Relating to Establishment of Natural Marketing Areas, by Providing the Entire State Shall Be Embraced in Not Less Than Five (5) Natural Marketing Areas, by Providing Methods for Establishment of Such Areas and Adjustment or Alteration of Their Boundaries Under Certain Circumstances; Section 27-407 of the Revised Codes of Montana of 1947, Relating to Orders Fixing Prices, by Specifying the Types and Contents of Notices of Hearings to Be Given by the Board and What Shall Be Contained in Price Orders, Section 27-409 of the Revised Codes of Montana of 1947, Relating to License Fees, by Providing for an Annual License Fee of Two Dollars ($2.00) and, in Addition Thereto, an Annual Assessment Upon Producers, Producer-Distributors, and Distributors, to Be Made by the Milk Control Board for the Purpose of Enforcing and Administering This Act; Section 27-410 of the Revised Codes of Montana of 1947, Relating to Application for Licenses, by Removing Therefrom the Provision That the License Year Shall Begin on January First of Each Year and the Provision Relating to Reduced License Fees Under Certain Circumstances; Section 27-414 of the Revised Codes of Montana of 1947, Relating to Rules of Fair Trade Practices, by Providing the Milk Control Board Shall Formulate Rules and Regulations Concerning Certain Practices Which Are Hereby Declared Unfair, Unlawful and Not in the Public Interest; Section 27-416 of the Revised Codes of Montana of 1947, Relating to Reports of Milk Dealers, by Requiring the Milk Control Board to Adopt a Uniform System of Accounting to Be Used by Distributors to Account for the Usage of All Milk Received by Them and by Providing Specific Records Which Must Be Kept by Distributors; Adding New Sections to the Milk Control Law to Provide for Bonding of Distributors, Appointment and Function of Local Advisory Boards When Public Hearings Are Scheduled for the Purpose of Fixing Prices, Judicial Review of Orders or Decisions of the Milk Control Board,	

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194		43 Approval not required; effective upon Governor's proclamation after general election.	An Act to Provide for the Submission to the Qualified Electors of the State of Montana an Amendment to Section 20, Article VII of the Constitution of the State of Montana Relating to the Composition, Powers and Duties of the State Board of Examiners, to Provide for the Abolishment of the State Board of Prison Commissioners as a Constitutional Body.	421
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197		370	An Act Repealing Section 92-710, Revised Codes of Montana, 1947, Relating to Hernia Cases.	448
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213	104		An Act to Amend Sections 67-406 and 67-407, Revised Codes of Montana, 1947, Relating to the Period During Which the Absolute Power of Alienation May Be Suspended and to Establish the American Common Law Rule Against Perpetuities, and to Repeal All Acts or Parts of Acts in Conflict Herewith, Including Specifically the Following Sections of the Revised Codes of Montana, 1947: Sections 67-422, 67-513, 67-515, 67-516, 67-517 and 67-518.	480
214	103		An Act to Provide That No Statutory or Common Law Rule or Provision Relating to Restraints Against Alienation, Suspension of the Power of Alienation, Accumulations of Income, Perpetuities or Remoteness of Vesting Shall Apply to Trusts Which Are Part of a Pension, Retirement, Insurance, Savings, Stock Bonus, Profit-sharing or Similar Plan, and Repealing All Acts or Parts of Acts in Conflict Herewith.	482
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221		113	An Act to Amend Section 32-1123 of the Revised Codes of Montana of 1947, as Amended by Chapter 250 of the Laws of 1955, Relating to Maximum Dimensions, Weights, and Speeds of Motor Vehicles, by Changing the Maximum Speeds of Trucks and by Revising the Maximum Gross Weight Standards for Vehicles, or Combinations of Vehicles, Having a Distance of from Thirty-nine (39) to Fifty-one (51) Feet, Inclusive; and Repealing All Acts and Parts of Acts in Conflict Herewith.	496
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223		544	An Act to Provide for a System of Dissemination to the Public of Proceedings of the Legislature, Namely Status Sheets, Status of Proceedings, Mimeographed Bills, Printed Bills, and Amendments to Printed Bills; to Provide for a Schedule of Fees to Be Paid by Persons Requesting and Receiving Such Items; Excluding Representatives of the Press, Radio, and Television, Elected Officials, State Department Heads and County Clerks and Recorders from the Payment of Fees, and Repealing All Acts and Parts of Acts in Conflict Herewith.	503
224		249	An Act to Amend Section 32-2134 of the Revised Codes of Montana, 1947, as Amended, Providing the Highway Commission to Sign All State Highway; Providing That the Commission Only Shall Sign Controlled Access Highways or Controlled Access Facilities; Providing That the Commission Shall Adopt and Publish Rules and Regulations Regarding the Erection, Placement and Maintenance of Signs for Traffic Control Devices; Providing That Every Unauthorized Sign or Traffic Control Device Encroaching Into the Right-of-way of a State Highway, or Controlled Access Highway Is a Public Nuisance; Providing Removal of an Encroaching Sign; Providing a Penalty; Repealing All Acts or Parts of Acts in Conflict Herewith.	505
225		221	An Act to Amend Section 66-229 of the Replacement Volume of the Revised Codes of the State of Montana, 1947, as Enacted in Section 10, Chapter 111 of the Laws of 1955, Relating to Exemptions from the Auctioneers and Auction Sales Act, to Provide for the Exemption of Individuals Maintaining an Established Retail Sales Place of Business and Inventory of Goods in the County in Which the Sale Is to Be Held; and Containing a Repealing Clause.	507
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			vised Codes of Montana, 1947, as Amended, or as Is Shown on the Gross Vehicle Weight Receipt Pursuant to Section 53-620, Revised Codes of Montana, 1947; Repealing All Acts or Parts of Acts in Conflict Herewith.	507
227	194		An Act to Amend Section 69-1807, Revised Codes of Montana, 1947, Relating to Fire Extinguisher Requirements for Buildings Within the Scope of Chapter 18 of Title 69, Revised Codes of Montana, 1947, to Prohibit Use of Fire Extinguishers Containing Toxic or Poisonous Vaporizing Liquids and Containing a Repealing Clause.	509
228	17		An Act to Amend Section 16-3605 of the Revised Codes of Montana, of 1947, to Authorize the Practice of Law by Justices of the Peace in Certain Instances; Providing for the Repeal of All Acts and Parts of Acts in Conflict Therewith.	510
229	135		An Act to Amend Section 62-102 of the Revised Codes of Montana, 1947, Relating to the Limitation of Expenditure of County Funds for the Purpose of Maintaining County Parks to Provide Authorization to Expend Not to Exceed Five Thousand Dollars ($5,000.00) Per Annum for Maintenance of County Parks; to Provide That There Are No Restrictions on Expenditures for the Purpose of Acquisition and Equipping of County Parks; Providing for a Repealing Clause.	511
230	102		An Act to Repeal Sections 38-1102, 38-1103, 38-1104, 38-1105, and 38-1107 and Amending Sections 38-1106 and 38-1108, of the Revised Codes of Montana, 1947, All Relating to the Procedure for Admittance and Commitment to the Montana Home for Senile Men and Women; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for an Effective Date.	512
231	168		An Act to Amend Section 92-104, Revised Codes of Montana of 1947, as Amended by Chapter 161 of the Laws of Montana, 1953, and Section 92-108, Revised Codes of Montana of 1947, Relating to the Membership of the Industrial Accident Board, the Salaries of the Members of the Board, and Repealing All Acts or Parts of Acts in Conflict Herewith.	513
232	72		An Act to Amend Section 91-4407 of the Revised Codes of Montana, 1947, as Amended by Chapter 5, Session Laws of Montana, 1957, Relating to the Deductions on Inheritance Tax; Providing That Attorneys' Fees, Filing Fees, Necessary Expenses and Closing Costs in Termination of Joint Tenancies and Life Estates and Transfers in Contemplation of Death and All Other Proceedings for the Determination of Inheritance Tax Shall Be Deductible; Providing for a Repealing Clause; and Providing for an Effective Date of This Act.	514
233	57		An Act to Amend Section 32-21-122 of the Revised Codes of Montana, 1947, Relating to Additional Equipment on Vehicles; by Requiring Safety Equipment for Logging Vehicles and Prescribing Safety Precautions to Be Taken by Operators of Vehicles Hauling Logs Upon the Public Highways of the State of Montana; Specifying the Number of Binders to Be Used and Carried on Such Vehicles; Prescribing the Material of Which Binders Shall Be Made; Prescribing the Size and Strength of Such Binders; Requiring Binders to Be Secured Around Load With the Use of Fasteners; Prescribing Procedure in Tightening Binders With Fasteners to Prevent Slippage or: Loosening of Binders; Prescribing Maximum Width Limitations; Prescribing Loading Procedure for Loads Which Extend Upward Beyond the Bunks or Stakes; Repealing All Acts and Parts of Acts in Conflict Herewith.	515
234	107		An Act to Amend Section 60-144, Revised Codes of Montana, 1947, as Amended, Relating to the Furnishing of Cores and Cuttings from Oil and Gas Wells by the Owners Thereof to the Oil and Gas Conservation Commission of the State of Montana; Deleting All References in Said Section to the Bureau of Mines and Geology of the State of Montana and Substituting the Commission Therefor; Providing the Commission May Relieve Owners of the Obligation to Furnish Cores and Cuttings When Unduly Burdensome or Oppressive; Repealing All Acts and Parts of Acts in Conflict Herewith.	518

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235		Sub. 53	An Act to Amend Section 75-2701, Revised Codes of Montana, 1947, Relating to Earnable Compensation and Average Final Compensation of the Teachers' Retirement System, State of Montana, and Repealing All Acts and Parts of Acts in Conflict Herewith.	520
236		435	An Act Adopting the Western Interstate Corrections Compact for the Development and Execution of a Program for the Reciprocal Confinement, Treatment and Rehabilitation of Certain Classes of Convicted Felons in Institutions of Participating States; Directing Cooperation of State Agencies in the Program; Authorizing the Holding of Hearings Requested by Agencies of Participating States; Empowering the Governor to Enter Into Contracts Under the Compact With the Approval of the Board of Examiners; and Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	524
237		215	An Act to Amend Section 32-1014, Revised Codes of Montana, 1947; Providing That It Shall Be Unlawful to Dump Garbage Upon or Near a Highway, Street or Alley and Public Recreational Property; Providing a Penalty for Violation Thereof; Providing for Enforcement by Sheriffs, Policemen, Highway Patrol, Game Wardens and Other Enforcement Agencies of the State; Repealing All Acts or Parts of Acts in Conflict Herewith.	532
238		317	An Act to Amend Section 11-403, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 239, Montana Session Laws of 1957, Relating to Extension of Boundaries to Include Contiguous Platted Tracts or Other Parcels of Land by Cities of the First Class; to Provide for the Annexation of Platted or Unplatted Tracts or Parcels of Land Wholly Surrounded by Cities of the First Class, and Providing the Procedure Therefor; Containing a Repealing Clause; and Providing an Effective Date.	533
239		168	An Act to Amend Section 75-2709 of the Revised Codes of Montana, 1947, Relating to the Method of Financing the Teachers' Retirement System of the State of Montana; to Provide for an Increase in the Employers' Contribution to the Pension Accumulation Fund for a Period of Six (6) Years; and Repealing All Acts and Parts of Acts in Conflict Herewith.	536
240		103	An Act to Amend Section 32-2131, Revised Codes of Montana, 1947, Relating to the Jurisdiction of Municipalities Over Violations Occurring Within the Limits of Municipalities, Allowing the Municipalities to Adopt as Ordinances All Acts Not in Conflict With State Law, Repealing All Acts in Conflict Herewith and Providing That This Act Be Effective From and After Its Passage and Approval.	544
241		248	An Act to Amend Section 32-2133, of the Revised Codes of Montana, 1947, Relating to the Adoption of a Sign Manual by the State Highway Commission; Providing the State Highway Commission Shall Adopt for Use on Controlled Access Highway, an Interstate Sign Manual.	546
242		44	An Act Providing for the Appointment of Custodial Officers to Assist the Warden in the Performance of His Duties in Superintending Prison Discipline and Prison Labor; Providing for the Supervision and Control Over Such Employees by the Warden; Providing for Various Ranks Within Such Class of Employees; Providing for a Period of Probationary Service and Training in the Respective Ranks; Providing for the Suspension, Demotion and Discharge of Such Employees, and for an Appeal from Any Such Action to the Board of State Prison Commissioners; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing for the Effective Date of the Act.	547
243		34	An Act to Amend Section 69-2401 of the Revised Codes of Montana, 1947; Providing for Defining a Boarding Home or Nursing Home for Aged Persons to Be a Home Where Two or More Aged Persons Are Residing and Boarding or Receiving Nursing Care; Defining the Operator of a Boarding Home or Nursing Home; Exempting from Licensing or Inspection Those Who Care for Relatives in a Noncommercial Nursing or Boarding Home; and Repealing All Acts and Parts of Acts in Conflict Herewith.	550
244		448	An Act Providing for a Law to Be Known as Section	

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			68-802, Revised Codes of Montana, 1947, Providing That Members of the Public Employees Retirement System Who Are Forced to Retire at Age Sixty-five or Over, Having Less Than Ten Years Service Accumulated, Be Permitted to Receive Service Retirement Benefits; and Providing a Repealing Clause.	551
245		346	An Act to Amend Subsection 3 of Section 53-106 of the Revised Codes of Montana, 1947, Relating to License Plates and Providing Exempt License Plates for Vehicles on Loan to or Owned by the Civil Air Patrol; and Containing a Repealing Clause.	552
246		191	An Act to Amend Section 68-102, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 92, Laws of Montana, 1955, Relating to Definitions of Terms Used in the Public Employees' Retirement Act by Redefining the Terms "Public Agency" and "State Employee"; to Amend Section 68-203, Revised Codes of Montana, 1947, as Amended by Section 3, Chapter 92, Laws of Montana, 1955, Relating to Whom Are Ineligible for Membership in the Public Employees' Retirement System; to Amend Section 68-701, Revised Codes of Montana, 1947, as Amended by Section 2, Chapter 176, Laws of Montana, 1953, and Section 5, Chapter 92, Laws of Montana, 1955, Relating to the Management of the Retirement Fund With Respect to the Refund of Member's Contributions; to Amend Section 68-801, Revised Codes of Montana, 1947, as Amended by Section 5, Chapter 186, Laws of Montana, 1951, and Section 1, Chapter 35, Laws of Montana, 1955, Relating to Voluntary Service Retirements With Respect to the Effective Date Thereof; and to Amend Section 68-901, Revised Codes of Montana, 1947, as Amended by Section 6, Chapter 186, Laws of Montana, 1951, Relating to the Minimum Guarantee by Providing a Minimum Guarantee for All Members Eligible for Retirement at the Age of Seventy (70) Years; and Providing That Invalidity of a Part of This Act Shall Not Affect or Impair the Remainder; That This Act Shall Become Effective Upon Its Passage and Approval; and Repealing All Acts or Parts of Acts in Conflict Herewith.	553
247		254	An Act to Amend Section 32-103 of the Revised Codes of Montana, 1947, Defining Public Highways, to Provide for Certain Changes in the Definition; to Amend Section 32-2114 of the Revised Codes of Montana, 1947, Enacted as Section 14, Chapter 263 of the Montana Session Laws of 1955, Defining Street or Highway, to Provide Changes in Definition; to Amend Section 84-1831 of the Revised Codes of Montana, 1947, enacted as Section 2, Chapter 162 of the Montana Session Laws of 1955, Relating to Definitions for the Purpose of Special Fuel Tax; to Establish the Policy of the State of Montana in the Regulation, Licensing and Taxation of Fuel Used in Motor Vehicles Operated in the State; and Containing a Repealing Clause.	572
248		50	An Act to Amend Section 71-1004 of the Revised Codes of Montana of 1947, as Amended, Relating to the Amount of Payment to Persons Having Silicosis; Repealing All Acts and Parts of Acts in Conflict Herewith.	576
249		157	An Act Authorizing the Court to Sentence a Convicted Misdemeanant to Confinement With Parole During the Periods of the Prisoner's Employment; Specifying the Disposition to Be Made of the Prisoner's Earnings; Setting Forth Conditions for Diminution of the Misdemeanant's Sentence; Declaring the Consequences of the Prisoner's Violation of Parole Conditions; Extending the Provisions of This Act to Jail Commitments for Adjudicated Contempt of a Court of Record; Containing a Savings Clause, Effective Date and Repealing All Acts and Parts of Acts in Conflict.	577
250		424	An Act to Authorize the State of Montana to Become Indebted for the Sum of Five Million Dollars ($5,000,000.00) in Excess of the Constitutional Limitation of Indebtedness and Over and Above Any Bonded Indebtedness Heretofore Incurred or Created and for Which the State of Montana Is Now Obligated for the Construction and Equipment of Necessary Buildings and Other Permanent Improvements for the Montana State Prison at Deer Lodge, Montana; Providing for the issuance of Bonds in the Name of the State of Montana as Evidence of Such Indebtedness and for the Sale Thereof; Prescribing the Form of Such Bonds and Providing for a Levy of an Annual Tax in Excess of the Amount	

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			Prescribed by the Constitution for State Purposes Sufficient to Pay the Principal Thereof and the Interest Accruing Thereon; and Providing for a Referendum of This Act.	578
251		Sub. 78	An Act to Promote and Protect the Public Health Through the Regulation of the Business of Plumbing; Creating a State Plumbing Board and Empowering Said Board and State Board of Health to Adopt a State Plumbing Code Covering the Practice of Plumbing and Establishing Minimum Standards for Plumbing Work; Providing Concurrent Authority for Cities and Towns; Fixing Penalties; Providing for an Effective Date of Said Plumbing Code; to Amend Section 66-2403, Revised Codes of Montana, 1947, Relating to Members on the State Board of Plumbing Examiners, by Removing One (1) Journeyman Plumber and Substituting in His Place and Stead One (1) Registered Professional Engineer, Qualified in Mechanical Engineering; and Providing for a Repealing Clause.	582
252		267	An Act to Amend Section 66-1301, Revised Codes of Montana, 1947, Replacement Volume 4, by Providing a New Definition of the Practice of Optometry and to Amend Section 66-1302, Revised Codes of Montana, 1947, Replacement Volume 4, Relating to Provisions Regulating the Practice of Optometry by Amending Paragraph 9 of Said Section Relating to the Work of Optical Mechanics; by Amending Paragraphs 10 and 11 Relating to Terminology and by Adding Thereto a New Paragraph 12 to Said Section Relating to the Fitting of Contact Lenses; and to Amend Section 66-1305, Revised Codes of Montana, 1947, Replacement Volume 4, Relating to Examinations by the Board of Examiners in Optometry, Providing That Said Board May Accept the Grades of an Applicant Received in Written Examinations by the National Board of Examiners in Optometry and Relating to a Change in Terminology Concerning Accreditation; and to Amend Section 66-1307, Revised Codes of Montana, 1947, Replacement Volume 4, Relating to Registration Fees by Increasing Said Fee from Ten Dollars to Twenty Dollars Per Year; and to Amend Section 66-1311, Revised Codes of Montana, 1947, Replacement Volume 4, Relating to Compensation of Examiners by Increasing Said Compensation from Fifteen Dollars to Twenty-five Dollars Per Day; and to Amend Section 66-1316, Revised Codes of Montana, 1947, Replacement Volume 4, by Extending the Exemption to Said Act to Certain Opticians and Certain Commissioned Officers of the Armed Forces and to Amend Chapter 13 of Title 66 of the Revised Codes of Montana, 1947, Replacement Volume 4, by Adding Thereto a New Section to Be Known by Section 66-1317, Prohibiting Discrimination by Public Agencies; Providing for a Savings Clause; and Repealing All Laws in Conflict Herewith.	587
253		460	An Act to Amend Section 84-4901, 84-4903, 84-4910, as Amended by Chapter 233, Laws of 1957, 84-4911, 84-4914, as Amended by Chapter 227, Laws of 1957, 84-4915, 84-4920.1, 84-4937, 84-4942, Revised Codes of Montana, 1947, All Relating to State Individual Income Taxes and Withholding of Individual Income Tax; Repealing All Acts and Parts of Acts in Conflict Herewith and Providing an Effective Date.	594
254		237	An Act Permitting Actions on Tort Claims Against the State of Montana to the Extent of the Insurance Coverage Carried by the State of Montana; Describing the Practice and Procedure Therefor; Providing That Where Insurance Is Applicable, Settlement Compromise or Judgment Shall Be Subject to Such Insuring Provisions; Containing a Repealing Clause and Providing for an Effective Date.	603
255		Sen. Sub. for 31	An Act Authorizing and Empowering the Supreme Court of the State of Montana to Recommend Rules of Pleading, Practice and Procedure in Civil Cases in the Courts of the State of Montana, for the Purpose of Simplifying Judicial Proceedings and Promoting the Speedy Determination of Litigation Upon Its Merits; Creating a Commission to Prepare Suggested Rules of Procedure of the State of Montana and Prescribing the Membership and Powers and Duties of Said Commission; Providing for Employment of a Secretary-Stenographer of the Commission and Employment of Research Agencies, If Deemed Necessary; Providing for the Payment of Actual Travel and Other Expenses Incurred by Members of Said Commission in the Discharge of Their Duties; Providing That Such Recommended Rules of Pleading, Practice and Procedure Shall Be Submitted to	

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			the Thirty-seventh Legislative Assembly of the State of Montana for Its Consideration; Repealing All Acts and Parts of Acts in Conflict Herewith and Providing for an Effective Date of This Act.	605
256		Sen. Sub. for 107	An Act to Amend Section 32-1201, Revised Codes of Montana, 1947, Relating to Definitions, by Defining Supervisor and Board, and to Amend Section 32-1202, Revised Codes of Montana, 1947, Relating to Accidents Involving Death or Personal Injury, by Substituting the Word "Board" for the Word "Registrar", by Authorizing the Board to Revoke License or Permit to Drive or Any Non-resident Operating Privilege for Violation of This Section; and to Amend Section 32-1206, Revised Codes of Montana, 1947, Relating to Duty of Drivers Upon Striking Fixtures or Other Property Upon the Highway, by Requiring Drivers of Vehicles Involved in Accidents to Report Damage to Property Owners; and to Amend Section 32-1207, Revised Codes of Montana, 1947, Relating to Immediate Reporting of Accidents by Requiring Drivers of Vehicles Involved to Give Immediate Notice of Accidents by Quickest Means of Communication; and to Amend Section 32-1208, Revised Codes of Montana, 1947, Relating to Written Reports of Accidents by Adding the Word "Bodily" Before the Word "Injury" of Subsection (a) of This Section by Increasing Property Damage from Twenty-five Dollars ($25.00) to One Hundred Dollars ($100.00) When Written Reports of Accidents Are Required, by Substituting the Word "Board" for the Word "Supervisor", Providing That the Report Will Contain Sufficient Information to Determine Compliances With Safety Responsibility Statutes, Providing That the Board May Require Drivers of Vehicles Involved in Accidents to Submit Additional Information and Providing That Law Enforcement Officers Who Investigate Accidents Must Submit a Written Report of Such to the Board Within Ten (10) Days; and to Amend Section 32-1209, Revised Codes of Montana, 1947, Relating to When Driver Is Unable to Give Immediate Notice or Submit Written Report by Exempting Drivers Who Are Physically Incapable of Giving Immediate Notice or Submitting Such Report, During Such Period of Incapacity, and Providing That an Occupant Shall Give Immediate Notice and Make or Cause to Be Made the Written Report Not Made by the Driver, and Providing That When the Incapacitated Driver Is Not the Owner of the Vehicle, the Owner of the Vehicle Shall Make Such Written Report Not Made by the Driver of the Vehicle; Prohibiting Any Person Making Reports from Giving False Information and Providing Penalty for Violation of Such Section; and to Amend Section 32-1210, Revised Codes of Montana, 1947, Relating to Accident Report Forms, by Substituting the Word "Board" for the Word "Supervisor"; Providing That the Board May Suspend the License or Other Driving Privilege of Persons Failing to Report Accidents and Providing for Fines for Persons Who Fail to Submit Written Reports of Accidents; and to Amend Section 32-1211, Revised Codes of Montana, 1947, Relating to Coroners' Responsibility to Report Traffic Accidents, by Requiring Coroners to Report Traffic Accidents to Board Each Month; and to Amend Section 32-1213, Revised Codes of Montana, 1947, Relating to Confidential Use of Accident Reports by Substituting the Word "Board" for the Word "Supervisor", Providing That Financial Responsibility Reports Submitted by the Persons Who Are the Drivers or the Owners of Motor Vehicles Are Confidential; Repealing All Acts or Parts of Acts in Conflict Herewith.	608
257		412	An Act to Amend Sections 84-5403 and 84-5409, Revised Codes of Montana, 1947, Relating to the Computation of Net Proceeds, Providing for Deduction of Improvements, Repairs and Betterments Over Ten Years; Providing New Improvements, Repairs and Betterments Reported to Assessor Before Deduction Allowed; Providing for Taxation and Payment of Royalty Interests; Providing for an Effective Date and Repealing All Acts and Parts of Acts in Conflict Herewith.	615
258		Sen. Sub. for 381	An Act Amending the Following Sections, All Pertaining to County Water Districts, of the Revised Codes of Montana, 1947; Section 16-4508 Relating to the Qualifications of Electors and the Manner of Conducting Elections; Section 16-4520 Relating to Publication of Notice of Election on Bonded Indebtedness and Qualifications of Electors; Section 16-4527 Relating to the Levy and Payment of Water District Taxes; Permitting Corporations and Individ-	

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			uals, Not Residents of the District But Owning Taxable Real Property Therein, to Vote at Water District Elections; Directing Publication of Notices in a Newspaper Within the County, Rather Than Within the District; Striking the Words ". . . Where the Water District Is Located More Than One (1) Mile from the Boundary of an Incorporated City or Town . . ." and Providing in All County Water Districts for Optional Methods of Assessing Water District Taxes; Providing for a Hearing and Notice Thereof Before Water District Taxes Are Levied; Providing for Payment of Taxes Under Protest and Suit for Recovery Thereof; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing a Saving Clause and an Effective Date.	617
259		93	An Act to Protect the Citizens of Montana from Persons Having Tuberculosis in a Communicable State; Defining the Terms "Facility" and "Tuberculosis"; Providing for Promulgation of Rules and Regulations by the State Board of Health; Allowing Any Board of Health to Apply to State District Court for Order of Commitment to a Facility; Specifying the Procedure Therefor; Providing for Commitment of Persons Found to Have Tuberculosis in a Communicable State; Permitting Patient to Apply to District Court for Release from Facility; Providing for Release When Confinement of Such Person Is no Longer Required; Establishing Fees and Providing for Payment of Expenses by the County; Requiring State Board of Examiners and Counties to Provide and Maintain Facilities; and Providing for an Effective Date.	622
260		290	An Act to Adopt the Uniform Facsimile Signatures of Public Officials Act; Providing for the Use of Facsimile Signatures and Seals on Public Securities and Instruments of Payment Issued by the State or Any of Its Instrumentalities or Political Subdivisions; Constituting a Felony the Use of Such Signatures or Seals With Intent to Defraud; and Amending the Following Sections of the Revised Codes of Montana, 1947, to Delete Provisions Inconsistent With This Act: Section 11-2231, Respecting Special Improvement District Bonds and Warrants; Section 11-2316, Respecting Municipal Bonds; Section 16-1620, Respecting Rural Improvement District Bonds and Warrants; Section 16-2033, Respecting County Bonds; Section 75-3919, Respecting School District Bonds; Section 75-3942, Respecting School District Funding Bonds; Section 79-1802, Respecting State Refunding Bonds; Section 89-1705, Respecting Irrigation District Bonds; and Section 89-2501, Respecting Drainage District Bonds; Containing a Severability Clause.	627
261		437	An Act to Amend Section 11-2204, Revised Codes of Montana, 1947, Relating to Resolution of Intention, Notice and Materials for a Special Improvement District, to Provide That a Copy of Notice of Passage of Resolution of Intention Shall Be Mailed to Every Person Having Real Property Within the Proposed District Listed in His Name Upon the Last Completed Assessment Roll for State, County and School District Taxes, Upon Same Day Such Notice Is First Published or Posted; Containing a Repealing Clause.	640
262		183	An Act Providing for the Construction, Furnishing and Equipping a Livestock Sanitary Board Diagnostic Laboratory Building in Gallatin County, Montana; Authorizing the State Board of Examiners to Issue and Sell Bonds for Such Purpose; Designating the Funds from Which Said Bonds Shall Be Paid; Providing for an Interest and Sinking Fund; Approving Expenditures of $100,000.00 from the Livestock Sanitary Board Fund 151; Pledging Amounts to Meet Principal and Interest on Said Bonds from the Levy Imposed by Section 84-5211, R. C. M., 1947; Providing a Repealing Clause and Effective Date of This Act.	642
263		307	An Act to Amend Section 84-1502, Revised Codes of Montana, 1947, Relating to Deductions Allowed in Computing Corporation License Tax Net Income; to Provide for a Reduction in the Deduction Allowed for Salaries; Provide for a Reduction in the Depletion Allowance Authorized by Said Section; Provide for Deduction of Certain Taxes; Providing a Savings Clause; Providing an Effective Date; and Repealing All Acts and Parts of Acts in Conflict Herewith.	645
264		303	An Act to Amend Section 84-1501, Revised Codes of Montana, 1947, Relating to Corporation License Tax, Organiza-	

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			tions Exempt from Such Tax and the Rate of Such Tax; Providing for the Rate of Such Tax; Providing for Taxability of All Net Income of Domestic Corporations and Broadening the Tax Base of Foreign Corporations; Providing an Effective Date for This Act; and Repealing All Acts and Parts of Acts in Conflict Herewith.	647
265		315	An Act to Amend Section 84-4902 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 228, of the Montana Session Laws of 1957, Relating to Rate of Income Tax; to Provide for a Change in Rates; Containing a Repealing Clause and Providing for an Effective Date.	651
266		194	An Act to Amend Section 75-107 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 92 of the Montana Session Laws of 1951, as Amended by Section 2, Chapter 236 of the Montana Session Laws of 1953, Relating to the Powers and Duties of the State Board of Education; Providing that the State Board of Education Shall Serve Ex Officio as Regents of the University of Montana; Providing That the Executive Secretary of the University of Montana Shall Serve as the Secretary for the Board Sitting as the University Regents, and Providing for an Effective Date.	652
267		255	An Act to Amend Section 75-3612 of the Revised Codes of Montana, 1947, as Amended by Chapter 241, Laws of 1955 and Chapter 251, Laws of 1957, Providing for the Equalization of Financial Distribution for All Elementary and Secondary Schools in Order to Maintain a Uniform System of Free Public Schools; Providing Schedules for Determining Support of Foundation Financial Program for Public Elementary and Secondary Schools, and for Other Purposes, and Containing a Repealing Clause and Effective Date.	654
268	137		An Act to Amend Section 94-1002, Revised Codes of Montana, 1947, and Providing Certain Buildings, Places and Tracts of Land Under One Ownership Are Public Nuisances If They Are Used for Illegal Acts as Prohibited by Chapter 24 and Chapter 30, Title 94, Revised Codes of Montana, 1947, Providing That All Acts in Conflict Herewith Are Hereby Repealed and Providing That This Act Be Effective From and After Its Passage and Approval.	657
269		192	An Act to Amend Section 75-104, of the Revised Codes of Montana, 1947, Relating to the Officers of the State Board of Education; Providing for the Election of a Chairman Thereof from Among the Appointed Members of Said Board and for Such Other Officers as May Be Necessary for the Effective Administration of the University System; and Providing for an Effective Date.	658
270		167	An Act to Amend Section 75-2707, Revised Codes of Montana, 1947, as Amended by Chapter 160, Laws of 1955; and Section 75-2712, Revised Codes of Montana, 1947, Relating to the Minimum Retirement Benefits Paid by the Teachers' Retirement System Under the Present System and Under the Former Retirement System; to Provide for an Increase in the Minimum Annual Retirement Allowance.	659
271		91	An Act to Amend Section 11-3804, Revised Codes of Montana, 1947, Relating to the Membership of City Planning Boards by Requiring the Citizen Members Appointed by the Mayor to Be Resident Freeholders; and to Amend Section 11-3812, Revised Codes of Montana, 1947, Relating to the Qualifications of City-County Board Members by Providing the Members Shall Be Resident Freeholders; and to Amend Section 11-3830, Revised Codes of Montana, 1947, Relating to the Adoption of a Master Plan for a City and Unincorporated Areas by Providing for Approval by the County Commissioners and Settling of Boundary Areas Between Planning Boards; and to Amend Section 11-3842, Revised Codes of Montana, 1947, Relating to the Filing of Subdivision Plats by Requiring the Plat Comply With the Master Plan and Approval Be Endorsed on the Plat Before Filing; and to Amend Section 11-3852, Revised Codes of Montana, 1947, Relating to City Powers Regarding Building and Zoning Regulations by Authorizing Boards of County Commissioners to Exercise Such Powers; and to Amend Section 11-3853, Revised Codes of Montana, 1947, Relating to the Recovery and Use of Resources by Including Agricultural Resources; and to Amend Section 11-3854, Revised Codes of Montana, 1947, Relating to the Planning	

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			Board Exercising Powers Conferred on Cities by Sections 11-2701 Through 11-2710 by Authorizing the Planning Board to Exercise the Same Powers Conferred on Boards of County Commissioners; Repealing Sections 11-3809, 11-3841, 11-3849 and 11-3850, Revised Codes of Montana, 1947, and All Acts in Conflict Herewith.	667
272		Sen. Sub. for Sub. 312	An Act to Amend Section 77-117 of the Revised Codes of Montana, 1947, Replacement Volume 5, Relating to the Adjutant-General of the State and the Assistant Adjutant-General; Providing That the Adjutant-General Shall Have the Rank of Major-General; Designating His Qualifications and Experience; Providing for a Salary; Providing for Replacement of the Adjutant-General; Repealing Subsections Twelve and Thirteen of Section 77-120 of the Revised Codes of Montana, Replacement Volume 5; and Repealing All Acts and Parts of Acts in Conflict Herewith.	671
273		171	An Act to Amend Section 69-2701 of the Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 136 of the Montana Session Laws of 1957, Relating to the Definition of Fireworks, to Provide More Adequate Definition for Fireworks for the Purposes of This Act; to Amend Section 69-2702 of the Revised Codes of Montana, 1947, and Section 69-2704 of the Revised Codes of Montana, 1947, Relating to the Sale or Use of Fireworks as Herein Defined; to Amend Section 69-2706 of the Revised Codes of Montana, 1947, Relating to Penalties, to Provide for Penalties for Violations of This Act; Containing a Repealing Clause.	673
274	191		An Act to Amend Section 23-902 of the Revised Codes of Montana, 1947, as Amended by Section 12 of Chapter 214 of the Session Laws of the Thirty-third Legislative Assembly, 1953, and as Amended by Section 1 of Chapter 266 of the Session Laws of the Thirty-fourth Legislative Assembly, 1955; to Amend Section 23-909 of the Revised Codes of Montana, 1947, as Amended by Section 2 of Chapter 266 of the Session Laws of the Thirty-fourth Legislative Assembly, 1955; to Amend Section 23-1006 of the Revised Codes of Montana, 1947, as Amended by Chapter 55 and by Section 14 of Chapter 214 of the Session Laws of the Thirty-third Legislative Assembly, 1953, and as Amended by Section 5 of Chapter 266 of the Session Laws of the Thirty-fourth Legislative Assembly, 1955, Relating to Primary Elections, the Purpose Thereof, Candidates to Be Nominated, Providing That Political Party Nominations Still Be Made Exclusively as Herein Provided, Providing for Holding State Conventions and Membership Thereof and Containing a Repealing Clause.	676
275	70		An Act to Amend Section 48-130 of the Revised Codes of Montana, 1947, Relating to the Written Declaration of Marriage Without Solemnization; Providing That Premarital Test Certificate Shall Be Obtained and Attached to the Declaration and Filed With the Clerk of the Court; Providing for the Contents of the Declaration of Marriage; Providing for a Repealing Clause; and Providing for an Effective Date of This Act.	679
276	69		An Act to Amend Sections 48-131 and 48-132 of the Revised Codes of Montana, 1947, Relating to the Written Declaration of Solemnized Marriages When the Records of Such Marriages Have Been Lost or Destroyed; Providing for the Contents of the Written Declaration, the Witnessing Thereof and Acknowledgment and the Filing Thereof With the Clerk of the District Court; Providing for a Repealing Clause and Providing for an Effective Date of This Act.	680
277		231	An Act Concerning the Ascertainment of Principal and Income and the Apportionment of Receipts and Expenses Among Tenants and Remaindermen, and to Make Uniform the Law With Reference Thereto; Containing a Repealing Clause and Providing an Effective Date.	682
278		170	An Act Amending Section 75-4103, of the Revised Codes of Montana, 1947, Providing for the Election and the Term of Office of County High School Trustees, and Stating the Qualifications for Voting at Such Election; Providing for a Petition to Be Signed by Fifteen Per Cent of the Qualified Voters Requesting the Election; Providing for the County Commissioners to Submit the Question to a Vote of the People of the High School District Whether School Trustees of County High School District Shall Be Elected; Providing for the Election of Said Trustees When the People	

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			Approve by Majority Vote; Providing That If a Majority of All the Votes Cast Be in Favor of Electing a Board of Trustees, Then the Provisions of Sections 75-4104 and 75-4105 of the Revised Codes of Montana, 1947, Shall No Longer Be Applicable; Providing That Upon the Election and Qualification for Office of All Seven of the Elected Trustees, the County Superintendent of Schools Shall no Longer Be a Member of the Board of Trustees; Providing for the Nominations of the Candidates for County High School Boards, and for the Procedures and Regulations Necessary for the Calling and Holding of the Annual Election of Such County High School Trustees, and for Their Assumption of Office; Providing for the Filling of Vacancies on the County High School Boards; Establishment of Trustee Districts; and Containing a Repealing Clause; and Providing for an Effective Date.	691
279		Sub. 293	An Act Directing the State Examiner to Examine the Accounts and Books of the University System for the Biennium Ending June 30, 1959, and Each Biennium Thereafter; Repealing All Acts and Parts of Acts in Conflict Therewith; and Providing for an Effective Date.	694
280	Sub. 175		An Act to Protect Livestock from Injury by Dogs; Providing That It May Be Unlawful to Keep a Dog Over the Age of Five (5) Months Without an Identifying License Tag; Providing for the Issuance of Dog License Tags and Kennel Licenses by County Treasurers and the Fees Therefor; Providing for the Issuance of Dog License Tags by Municipal Corporations Under the Provisions of This Act; Providing for the Impounding of Unlicensed Dogs Running at Large by Law Enforcement Officers and a Fee Therefor; Providing That County Commissioners May Provide for the Impounding and Disposition of Dogs Running at Large Contrary to the Provisions of This Act, and Authorizing Them to Appoint a County Pound Master to Enforce This Act or to Enter Into Contracts With Others to Perform Such Duties; Providing That Impounded Dogs Shall Not Be Disposed of Without Notice to the Owner, if Known, or Before Seventy-two (72) Hours Have Elapsed After Impounding Nor, in the Case of Dogs Suspected of Rabies, Before Release by the County Health Officer; Providing for the Fixing of Pound Fees and Charges by the Board of County Commissioners and the Payment Thereof from the County Treasury or by the Owner of Such Impounded Dog; Providing That Failure of the Owner of a Dog to Pay Pound Fees and Charges After Notice of Impounding Constitutes Abandonment of the Dog; Providing That Fees and Fines Collected Under This Act Shall Be Paid Into the County Treasury for the Enforcement of This Act; Providing That Violation of This Act Shall Constitute a Misdemeanor; Providing That the Owner of Livestock or Poultry Killed or Injured by a Dog or Dogs May Recover Damages from the Owner or Owners Thereof and That Lack of Knowledge of the Dog's Disposition or Whereabouts Shall Constitute no Defense to Said Action; Defining the Word "Owner" in Relation to Dogs; Providing That If Any Part of This Act Is Adjudged Invalid, Inoperative or Unconstitutional, Such Decision Shall Not Affect, Impair or Invalidate the Remaining Portions of This Act; and Providing for the Repeal of All Acts and Parts of Acts in Conflict Herewith.	695
281	154		An Act to Amend Section 75-3804, Revised Codes of Montana, 1947, Relating to the Form and Marking of Ballots in School District Elections; Substituting the Word "Levies" in the Form of the Ballot; and Repealing All Acts and Parts of Acts in Conflict Herewith.	700
282		89	An Act Relating to and Regulating the Retail Installment Selling and Financing of Goods, Including Motor Vehicles and Services; to Define Terms Used Herein; to Require the Licensing of Sales Finance Companies; to Vest the Administration and Enforcement of This Act in the Office of the State Superintendent of Banks; to Prescribe the Powers, Duties, Authority and Jurisdiction of Such Superintendent of Banks With Respect to This Act; to Authorize the Adoption and Promulgation of Rules and Regulations; to Prescribe and Regulate the Form and Content of Contracts Covering the Retail Installment Sale of Goods and Services; to Regulate the Inclusion of Insurance in a Retail Installment Sale; to Limit the Amount of the Finance Charge That Can Be Made for Such Retail Installment Sales; to Regulate Delinquency Charges and the Refinancing of Such Retail Installment Sales; to Require a Partial	

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			Refund of Such Charges on Prepayment; to Make Certain Acts Unlawful and Providing Penalties for Violations of This Act; Providing for Waiver and Severability.	701
283		Sub. 123	An Act Relating to Loans and Interest and Other Charges and Expenses on Loans; to Define "Consumer Type Loan Business" and Certain Other Terms; to Regulate and License the Business of Making Consumer Type Loans in the Amount of One Thousand Dollars ($1,000) or Less; to Create the Office of Consumer Loan Commissioner, and to Provide for the Appointment and Compensation of a Consumer Loan Commissioner and to Prescribe the Powers, Duties, Authority, and Jurisdiction of Such Commissioner; to Authorize the Adoption and Promulgation of Rules and Regulations; to Make Certain Acts Unlawful and to Provide Penalties and Forfeitures for Violations of This Act; to Exempt Certain Businesses from the Provisions of This Act; to Prescribe Certain License and Other Fees; to Create a "Consumer Loan Administration Fund" to Be Used to Administer and Enforce the Provisions of This Act; to Provide for the Issuance, Refusal, Suspension and Revocation of Licenses; to Provide for the Refund of Certain Precomputed Charges Where a Loan Is Paid Prior to Maturity; to Authorize and Regulate the Issuance of Certain Insurance in Connection With Consumer Type Loans in the Amount of One Thousand Dollars ($1,000) and Less; to Authorize Investigations and Examinations by the Commissioner and to Provide for Examination Fees; to Require Licensees to Keep Certain Records and to Make Certain Reports; to Regulate Wage Assignment; to Provide for Appeals from Any Action or Order of the Commissioner; and Repealing All Acts and Parts of Acts in Conflict Herewith.	715
284		Sen. Sub. for Sub. 426	An Act to Amend Section 81-433 of the Revised Codes of Montana, 1947, as Amended by Chapter 190, Laws of the Thirty-first Legislative Assembly of Montana, 1949, and by Chapter 229, Laws of the Thirty-second Legislative Assembly of Montana, 1951, Relating to Rental Rates of State Grazing Lands Upon the Animal-Unit-Month Basis; to Provide for an Increase in the Rental Rates of State Grazing Lands by Use of a New Formula for Computation of Such Rates, and to Provide for the Repeal of All Acts and Parts of Acts in Conflict Herewith, and Providing for an Effective Date of Said Act.	730
285		Sub. 15	An Act Prescribing Rules and Regulations for Numbering and Registering Motorboats and Vessels in the State of Montana; Defining Terms and Designating the Fish and Game Commission of the State of Montana as the State Agency Responsible for the Administration of said Act in the State of Montana; Providing Minimum Equipment Requirements for Motorboats and Vessels; Establishing Safety Regulations for the Use and Operation of Motorboats and Vessels in the State of Montana; Establishing Safety Regulations for the Use of Water-Skis, Surfboards and Similar Devices; Providing Penalties for Violation of Said Act; Repealing Sections 94-35-266, 94-35-267, and 94-35-268 of the Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict With This Act; Providing a Savings Clause and Effective Date.	732
286		29	An Act to Provide a Comprehensive Revision, Consolidation and Classification of the Laws of the State of Montana Relating to Insurance and to the Insurance Business; Regulating the Incorporation, Formation, and Affairs of Domestic Insurance Companies, Societies, and Associations, and the Admission of Foreign and Alien Insurance Companies, Societies, and Associations; Providing for Their Rights, Powers and Immunities, and to Prescribe the Conditions on Which Insurance Companies, Societies, and Associations Organized, Existing, or Authorized Under This Act May Exercise Their Powers; Providing for the Rights, Powers, and Immunities and to Prescribe the Conditions on Which Other Persons, Firms, Corporations, and Associations Engaged in or Affected by an Insurance Business May Exercise Their Powers; Providing for Service of Process on Unauthorized Insurers and the Conditions for Defense of Actions Brought Against Them in This State; Providing for Certain Powers, Rights, Obligations, Immunities, and Consequences as to Insurers and Other Persons Relative to Insurance Contracts and Annuity Contracts and Matters Arising from Such Contracts; Providing for the Imposition of Licenses, Fees, and Taxes, and for the Disposition Thereof; Providing for the Departmental	

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			Supervision and Regulation of the Insurance Business Within or Relative to This State; Providing Penalties for the Violation of This Act; Providing for an Effective Date of This Act; Repealing the Following Sections of the Revised Codes of Montana, 1947: Section 25-101; Sections 40-101 Through 40-105; Sections 40-201 Through 40-218; Sections 40-301 Through 40-323; Sections 40-401 Through 40-415; Sections 40-501 Through 40-517; Sections 40-601 Through 40-609; Sections 40-701 Through 40-706; Section 40-801; Sections 40-901 Through 40-905; Sections 40-1001 Through 40-1005; Sections 40-1101 Through 40-1118; Section 40-1204; Section 40-1301; Section 40-1302 as Amended by Section 1, Chapter 224, Laws of Montana, 1957; Sections 40-1303 Through 40-1333; Sections 40-1401 Through 40-1441; Sections 40-1501 Through 40-1517; Sections 40-1601 Through 40-1625; Sections 40-1701, 40-1702; Sections 40-1704 Through 40-1722; Section 40-1726; Sections 40-1801 Through 40-1820; Sections 40-1901 Through 40-1946; Sections 40-2001 Through 40-2012; Sections 40-2101 Through 40-2138; Sections 40-2201 Through 40-2212; Sections 40-2301 Through 40-2310; Sections 40-2401 Through 40-2412; Section 40-2413 as Amended by Section 1, Chapter 108, Laws of Montana, 1955; Sections 40-2414 Through 40-2416; and Sections 40-2501 Through 40-2513; Repealing All Acts and Parts of Acts in Conflict Herewith.	745

APPROPRIATIONS

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2	An Act to Appropriate Money for the Legislative Assembly and for the Payment of Per Diem to the Officers and Attaches and for Incidental Expenses of the Thirty-sixth Legislative Assembly of the State of Montana.	1109
55	An Act Appropriating the Sum of Eighty-one Thousand, One Hundred Sixty-six Dollars and Sixty Cents ($81,166.60) to Pay the Claim of Glenn Chamberlain, Minor Male Child, Which Claim Was Heard and Unanimously Approved and Allowed in Full by the State Board of Examiners on the 18th Day of December, 1958, for Injuries Received, to-wit: Total and Permanent Blindness in Both Eyes, and Complete Loss of the Index Finger of the Right Hand, on the 8th Day of May, 1956, in the Impact Area of the Montana National Guard Firing Range Near Harlowton, Montana, by Reason of the Negligence of the Montana National Guard in Leaving Unexploded 37-mm. Shells in the Impact Area, Not Posting the Same, Knowing Such Shells Were Attractive to Children; by Reason of Which Said Glenn Chamberlain, a Minor of Twelve (12) Years of Age on the 8th Day of May, 1956, Picked Up and Played With One of Said Unexploded 37-mm. Shells, which Exploded in His Hand Resulting in Said Injuries; Providing an Effective Date.	1110
119	An Act to Appropriate Money from This State's Account in the Unemployment Trust Fund on Deposit With the Secretary of the Treasury of the United States of America, Limited to the Amounts Paid Into Said Fund Pursuant to Section 903 of the Social Security Act, as Amended, for the Construction of an Unemployment Compensation Commission Building Upon the Present Capitol Building Grounds, and for the Liquidation of Bonds Hereafter Sold to Obtain Funds for Such Construction, and, Further, Limiting the Period of Time Prior to the Obligation of Such Funds to a Period Not to Exceed Two Years From the Date of the Passage and Approval of This Act; Providing a Name for Said Building; and Providing an Effective Date.	1113
136	An Act to Appropriate One Hundred Thousand Dollars ($100,000.00) for the Operation and Expenses of the Legislative Council for the Period Beginning July 1, 1959, and Ending June 30, 1961, and to Provide for an Effective Date of This Act.	1114
142	An Act to Provide for the Reappropriation of the Balance Remaining in Account Number 766, of the Legislative Council, for the Period Beginning February 21, 1959, and Ending June 30, 1959, and to Provide for an Effective Date of This Act.	1114
169	An Act to Appropriate Money for the Purchase of Cumulative Pocket Supplements of 1959, for the Revised Codes of Montana, 1947.	1115
268	An Act to Appropriate Money for the Purpose of Refunding Inheritance Taxes Erroneously Paid to the State of Montana on the Death of Thomas E. Luebben Late of Dillon, Montana.	1115
314	An Act to Appropriate Money for the Construction of Facilities Necessary for the Administration and Training of the Montana National Guard; Providing That the Appropriation Herein Shall Be Valid Notwithstanding the Provisions of the Budget Act.	1116

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521	An Act to Appropriate Money for the Purchase of Sets of the Revised Codes of Montana, 1947.	1117
522	An Act to Appropriate Money for the Purpose of Paying Expenses as Designated Herein, for Montana State Prison, Bureau of Identification, and Bureau of Vocational Rehabilitation, for the Remainder of the Current Fiscal Year Ending June 30, 1959, It Being Determined the Appropriation Made by the Thirty-fifth Legislative Assembly, to Be Insufficient; and Providing for an Effective Date.	1117
523	An Act to Appropriate Money for the Payment of Certain Deficiency Claims Arising from Obligations Incurred by the State Board of Equalization; Public Employees Retirement System; Supreme Court; State Forester; from Obligations Arising from a Judgment for Robert L. Randall; Providing for Validity Notwithstanding the Provisions of the Budget Act; and Providing for an Effective Date.	1118
524	An Act to Appropriate Money to the Board of Examiners for the Payment of Certain Contract Obligations at the Montana State Prison, Said Lands Under Contract Known as Deer Lodge Valley Farms, Payment of Lease on Certain State and Forest Lands, Payment of Taxes on Lands Under Purchase Contract and to Pay Interest on Unpaid Balance; for Obligations to the International Roll Call Corporation; and Providing for an Effective Date.	1120
Sub. 525	An Act to Appropriate by Means of the Issuance and Sale by the State Board of Examiners of Bonds in Addition to Bonds Already Authorized to Be Issued and Sold for the Purpose of Completing Construction, Building and Furnishing Quarters for the Governor; Designating the Monies from Which Said Bonds Should Be Paid; Providing that the Such Monies Shall Be Placed in the Governor's Quarters Construction Interest and Sinking Fund; Enumerating the Powers and Duties of the State Board of Examiners in Carrying Out the Provisions of This Act; Providing That the Appropriation Herein Provided for Shall Be Valid Notwithstanding the Provisions of the Budget Act; and Providing for an Effective Date.	1122
527	An Act to Appropriate Money for the Purpose of Paying Expenses as Designated Herein, for Supreme Court, State Controller, Secretary of State, Board of Pardons, Apprenticeship Council, Transportation of Prisoners, State Treasurer, Vocational School for Girls, State Examiner, Montana Milk Control Board, Railroad Commission, Montana State Hospital, State Orphans Home, District Judges, Capitol Custodian, County Attorneys, Attorney General, Law Library, Governor's Office, Western Montana College of Education, Montana State College, Agricultural Experiment Station, Experimental Substations of the Montana Agricultural Experiment Station, Agricultural Extension Service of Montana State College, and Montana State University, for the Remainder of the Current Fiscal Year Ending June 30, 1959, It Being Determined the Appropriation Made by the Thirty-fifth Legislative Assembly to Be Insufficient; and Providing for an Effective Date.	1124
528	An Act to Appropriate Money for the Operation, Maintenance and Other Purposes as Designated Herein, for Certain State Departments and Offices for the Period Beginning July 1, 1959, and Ending June 30, 1961.	1129
529	An Act to Appropriate Money to Provide Funds for the Administration of the Vocational Education Act of 1946 by the State Board of Education; Appropriating Money for the Administration of the National Defense Education Act of 1958 by the Superintendent of Public Instruction; and Providing that the Provisions Hereof Shall Be Deemed Valid Notwithstanding the Provisions of the Budget Act.	1145
530	An Act to Appropriate Money for the Purchase of Replacement Volume Three of the Revised Codes of Montana of 1947; and Providing an Effective Date.	1146
532	An Act to Appropriate Money for the State Public School Equalization Fund and Providing for the Manner of Distribution Thereof for the Period Beginning July 1, 1959, and Ending June 30, 1961; and Providing That the Appropriations Herein Shall Be Valid Notwithstanding the Provisions of the Budget Act.	1147
533	An Act to Appropriate Money for the Payment of Insurance Premiums for Insurance on State Property Out of Certain Funds Designated Herein for the Period Beginning July 1, 1959, and Ending June 30, 1961; and Providing That the Appropriations Herein Shall Be Held Valid Notwithstanding the Provisions of the Budget Act.	1148
535	An Act to Appropriate Money for the Purpose of Supplementing Certain Funds to Defray Expenses of the Thirty-sixth Legislative Assembly; Providing That the Appropriations Herein Shall Be Valid Notwithstanding the Provisions of the Budget Act and Providing an Effective Date.	1149
536	An Act to Appropriate Money for the Operation and Maintenance and for Other Purposes Designated Herein for the Several Units of the University of Montana, Known as Montana State University, Montana State College, Ex-	

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	periment Station and Substations, Extension Service, Montana School of Mines, Western Montana College of Education at Dillon, Eastern Montana College of Education at Billings, and Northern Montana College at Havre, the Office of the Executive Secretary, and for Student Fare Refunds for the Period Beginning July 1, 1959 and Ending June 30, 1961.	1151
537	An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for Certain State Institutions, for the Period Beginning July 1, 1959, and Ending June 30, 1961.	1171
Sub. 538	An Act to Appropriate Money for the State Department of Public Welfare of the State of Montana for Public Assistance, for Administrative Costs in the State Department and in the County Departments of Public Welfare and for All Other Expenditures Coming Under the State Department of Public Welfare Which They May Lawfully Incur, for the Period Beginning With July 1, 1959, and Terminating With June 30, 1961.	1184
539	An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for Certain State Departments, Boards, Bureaus and Commissions, for the Period Beginning July 1, 1959, and Ending June 30, 1961.	1187
540	An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for Certain State Departments, Boards, Bureaus and Commissions, for the Period Beginning July 1, 1959, and Ending June 30, 1961.	1212

MEMORIALS AND RESOLUTIONS

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House Joint Memorial No. 1	A Joint Memorial of the House of Representatives and Senate of the State of Montana to the Congress of the United States; the Honorable James E. Murray and the Honorable Mike Mansfield, Senators from the State of Montana; the Honorable Lee Metcalf and the Honorable LeRoy Anderson, Representatives from the State of Montana; and to the Committees on Interstate and Foreign Commerce of the House of Representatives and the Senate of the United States, Urging Such Remedial Action, Through Congress' Authority Over the Federal Communications Commission, as Will Insure Continued Operation of the Free Television Stations in Montana; Regulating Companies Who Transmit Signals to Feed Cable Systems from Outside the State of Montana; and to Insure the Continued Operation of Low Power VHF Booster Stations, to the End That the People of Montana Shall Not Be Denied the Advantageous Services of a Montana System of Free Television Broadcasting.	1243
House Joint Memorial No. 2	A Joint Memorial of the Senate and House of Representatives of the State of Montana to the President of the United States, Dwight D. Eisenhower; Senator James E. Murray, of Montana; Senator Mike Mansfield, of Montana; Congressman Lee Metcalf, of Montana; Congressman LeRoy Anderson, of Montana; the Committee on Appropriations of the United States Senate; the Committee on Appropriations of the United States House of Representatives; the Committee on Interior and Insular Affairs of the United States Senate; the Committee on Interior and Insular Affairs of the United States House of Representatives; the Committee on Public Works of the United States House of Representatives; the Secretary of the Interior, Fred A. Seaton; the Commissioner of the Bureau of Reclamation, Wilbur A. Dexheimer; the Secretary of the Army, Wilber M. Brucker; the Director of the Budget, Maurice H. Stans; Requesting the Introduction and Enactment Into Law of the Necessary and Proper Legislation to Authorize and Provide Funds to Start the Construction on Yellowtail Dam on the Big Horn River in the State of Montana for 1959.	1245
House Joint Memorial No. 3	A Joint Memorial of the Senate and House of Representatives of the State of Montana to the President of the United States, Dwight D. Eisenhower; the Congress of the United States; James E. Murray and Mike Mansfield, Senators from the State of Montana; Lee Metcalf and LeRoy Anderson, Representatives in Congress from the State of Montana; the Committee on Public Works of the United States Senate; the Committee on Public Works of the United States House of Representatives; the Committee on Appropriations of the United States Senate; the Committee on Appropriations of the United States House of Representatives; the Secretary of the Army, Wilber M. Brucker; the Chief of the Corps of Engineers, Department of the Army, Major General E. C. Itschner; and the Director of the Budget, Maurice H. Stans; Urging Construction of Libby Dam in Two Stages, With Work Beginning on	

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	the Initial Stage as Soon as Possible in Order to Protect the National Interest in Water and Water Resources Rising in the United States; and Requesting Sufficient Appropriations so That Detailed Planning and Design Work Can Begin Immediately.	1246
House Joint Memorial No. 5	A Joint Memorial of the Senate and House of Representatives of the State of Montana to the Governor of the State of Montana, J. Hugo Aronson, Requesting Said Governor to Proclaim October 31st as Youth Honor Day.	1250
House Joint Memorial No. 7	A Joint Memorial of the Senate and House of Representatives of the State of Montana to the President of the United States, Dwight D. Eisenhower; the Congress of the United States; James E. Murray and Mike Mansfield, Senators from the State of Montana; Lee Metcalf and LeRoy Anderson, Representatives in the Congress from the State of Montana; the Committee on Public Works of the United States Senate; the Committee on Public Works of the United States House of Representatives; the Committee on Appropriations of the United States Senate; the Committee on Appropriations of the United States House of Representatives; Interior Committees; the Secretary of the Army, Wilber M. Brucker; the Chief of the Corps of Engineers, Department of the Army, Major General E. C. Itschner; the Secretary of the Interior, Fred Seaton; the Commissioner of the Bureau of Reclamation, W. A. Dexheimer; and the Director of the Budget, Maurice H. Stans; Requesting the Introduction and Enactment Into Law of the Necessary and Proper Legislation to Authorize Construction by the Federal Government of Glacier View Dam on the North Fork of the Flathead River in the State of Montana With Appropriate Provision for the Reservation of a Block of Power Generated Therefrom to Montana; to Authorize That Sufficient Appropriations Be Provided for the Detailed Planning and Construction of Glacier View Dam.	1251
House Joint Memorial No. 9	A Joint Memorial of the Senate and the House of Representatives of the State of Montana to the President of the United States; to the Congress of the United States; to the Secretary of Defense and the Department of Defense; to the Honorable United States Senators James E. Murray and Mike Mansfield; to the Honorable Representatives in Congress Lee Metcalf and LeRoy Anderson; Requesting That the Department of Defense Activate and Utilize the Facilities of Fort Missoula at Missoula, Montana as a regular Army Post, or If Such Is Not Presently Possible, to Keep Said Post Intact, Maintained and Under Consideration for Future Use.	1256
House Joint Memorial No. 10	A Joint Memorial of the House of Representatives and the Senate of the State of Montana to the Congress of the United States; to the Honorable James E. Murray and the Honorable Mike Mansfield, Senators from the State of Montana; the Honorable Lee Metcalf and the Honorable LeRoy Anderson, Representatives in Congress from the State of Montana; and to the Committee on Military Affairs, Washington, D. C., Urging That the Congress of the United States Enact Legislation Granting Pensions to World War I Veterans as Heretofore Done for the Spanish-American Veterans and Veterans of Other Prior Wars of the United States.	1257
House Joint Memorial No. 12	A Joint Memorial of the Senate and House of Representatives of the State of Montana to the Congress of the United States; Senator James E. Murray of Montana; Senator Mike Mansfield of Montana; Congressman Lee Metcalf of Montana; Congressman LeRoy Anderson of Montana; the Committee on Interior and Insular Affairs of the United States Senate; the Committee on Interior and Insular Affairs of the United States House of Representatives; and the Secretary of Interior, Fred A. Seaton; Requesting the Establishment of a Federal Indian Policy Which Recognizes the Duty of the Federal Government to the American Indian.	1258
House Joint Resolution No. 1	A Joint Resolution of the House and Senate of the State of Montana to the President of the United States, Dwight D. Eisenhower; to the Congress of the United States; to the Senate Interior and Insular Affairs Commitee; to Senators James E. Murray and Mike Mansfield; to Congressmen Lee Metcalf and LeRoy Anderson; and to the Hawaii Delegation in the United States Congress and the Governor of the Territory of Hawaii; Requesting the President and Congress of the United States to Do What May Be Necessary to Give Full Statehood to the Territory of Hawaii.	1260
House Joint Resolution No. 2	A Joint Resolution of the House of Representatives and Senate of the State of Montana authorizing the Employment of a Tax Consultant by the Thirty-sixth Legislative Assembly of the State of Montana.	1261
House Joint Resolution No. 3	A Joint Resolution of the House of Representatives of the State of Montana, the Senate Concurring, to the State Board of Education, Requesting the Said State Board of Education to Raise the Fees	

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	and Tuition Charges of Non-resident Students at the University of Montana.	1262
House Joint Resolution No. 4	A House Joint Resolution Requesting and Directing the Montana Legislative Council to Make a Complete Study of the Laws, Regulations and Administration of the State Lands and Investments of the State of Montana to Determine Whether the Maximum Revenue Is Being Derived from These Lands and Investments and to Recommend Ways in Which Such Revenue May Be Adjusted if Necessary.	1263
Senate Joint Memorial No. 1	A Joint Memorial by the Senate of the Thirty-sixth Legislative Assembly of the State of Montana, the House of Representatives Concurring, to the Congress of the United States; the Honorable James E. Murray, United States Senator from Montana; the Honorable Mike Mansfield, United States Senator from Montana; the Honorable Lee Metcalf, Congressman from Montana; the Honorable LeRoy Anderson, Congressman from Montana; and the Federal Communications Commission to Take Such Remedial Action as Deemed Necessary to Preclude the Closing of Very High Frequency Booster Stations Necessary for Television Reception in Areas of the State of Montana.	1264
Senate Joint Memorial No. 2	A Joint Memorial of the Senate and the House of Representatives of the State of Montana to the Congress of the United States; Honorable James E. Murray and Honorable Mike Mansfield, United States Senators of Montana; Honorable Lee Metcalf and Honorable LeRoy Anderson, Members of the House of Representatives of Montana; the Committee on Interior and Insular Affairs of the United States Senate; the Committee on Interior and Insular Affairs of the United States House of Representatives; the Secretary of the Interior; and the United States Commissioner of Reclamation, Urging That the Congress Reject the Program of the United States Bureau of Reclamation, as Set Forth in Its Report on the Three Forks Division, Missouri River Basin Project, Insofar as It Relates to the Diversion of Water from the Madison River and That the Congress Assure the Preservation of Recreational and Fishery Resources Values of the Madison River Valley.	1266
Senate Joint Memorial No. 3	A Joint Memorial of the Senate and House of Representatives of the State of Montana to the Congress of the United States; Honorable James E. Murray and Honorable Mike Mansfield, Senators from the State of Montana; Honorable Lee Metcalf and Honorable LeRoy Anderson, Representatives in Congress from the State of Montana; Urging the United States Congress to Investigate and Study the Supply, Control, Allocation and Use of the Missouri Basin Waters and Power.	1268
Senate Joint Resolution No. 1	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the First Legislative Assembly of the State of Alaska, to Its Officers and Members Thereof, Congratulating the First Assembly of the State of Alaska on Its Initial Session and Offering and Extending to the Assembly the Aid, Cooperation and Help of the Senate and the House of Representatives of the Thirty-sixth Legislative Assembly of the State of Montana; and Extending an Invitation to the Officers and Members of the First Legislative Assembly of the State of Alaska to Visit the Thirty-sixth Legislative Assembly of the State of Montana Now in Session; Directing the Secretary of the Senate to Forward Copies of This Resolution to the First Legislative Assembly of the State of Alaska.	1270
Senate Joint Resolution No. 2	A Joint Resolution by the Senate of the Thirty-sixth Legislative Assembly of the State of Montana, House of Representatives Concurring, to the Honorable Dwight D. Eisenhower, President of the United States; to the Honorable Neil McElroy, Secretary of Defense; to the President of the Senate of the United States; to the Speaker of the House of Representatives of the United States; to the Honorable James E. Murray, Senator from Montana; to the Honorable Mike Mansfield, Senator from Montana; to the Honorable Lee Metcalf, Congressman from Montana; to the Honorable LeRoy Anderson, Congressman from Montana; to the Honorable Richard B. Russell, Senator from Georgia and Chairman of the Senate Armed Services Committee; and to the Honorable Carl Vinson, Congressman from Georgia and Chairman of the House of Representatives Armed Services Committee, Urging That the President and the Congress Assure the People of the State of Montana That the National Guard of the United States, as Recognized and Established in the Constitution and Laws of the United States, Will Be Preserved; and That no Unilateral Federal Action Concerning the National Guard of the United States Reducing in Strength or Units Will Be Taken Without Prior Consultation and Approval of the States Acting by and Through the Governor Thereof.	1271

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Senate Joint Resolution No. 3	A Joint Resolution of the Senate, the House of Representatives Concurring, of the Thirty-sixth Legislative Assembly of the State of Montana, 1959, Authorizing and Encouraging Continued and Extended Study by the State Board of Health of the Problems Occasioned by the Narcotic-like Substances, and, Further Study of the Problems of Alcoholism and to Report Their Findings and Recommendation for the Prevention and Cure of Alcoholism to the Thirty-seventh Legislative Assembly of the State of Montana.	1273
Senate Joint Resolution No. 4	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States; to the Congress of the United States; to Senators James E. Murray and Mike Mansfield from the State of Montana; to Congressmen Lee Metcalf and LeRoy Anderson from Montana; Requesting the Reaffirmation of National Policy of Federal Financial Support for Education.	1275
Senate Joint Resolution No. 5	A Joint Resolution of the Senate and of the House of Representatives of the State of Montana Requesting That the Governor of the State of Montana Instruct and Require All Executive Departments to Prepare and Have Ready for Submission Any Requests for Legislative Action Upon the First Day of the Legislative Session.	1276

CONSTITUTIONAL AMENDMENT

and

REFERENDUM MEASURES

Title Page

CONSTITUTIONAL AMENDMENT

CHAPTER 161

An Act to Provide for the Submission to the Qualified Electors of the State of Montana an Amendment to Section 6, Article XIII of the Constitution of the State of Montana, Relating to the Limitations of Indebtedness of Liability of School Districts, High School Districts, Towns and Townships. 1283

REFERENDUM MEASURE NO. 59

An Act to Amend Section 4-417, Revised Codes of Montana, 1947, Relating to Excise Tax on Liquor; Containing a Repealing Clause. 1284

NOTE: Referendum 60, relating to University bond issue, declared unconstitutional by Montana Supreme Court on July 15, 1958.

REFERENDUM MEASURE NO. 61

An Act Providing for the Increase of the Rate of Taxation on Real and Personal Property for State Purposes of Not to Exceed Six (6) Mills on Each Dollar of Taxable Valuation in Addition to the Levy Which Is Now or May Be Hereafter Authorized by Section 9 of Article XII of the Constitution of the State of Montana, for a Period of Ten (10) Years Beginning With the Year 1959, and to Authorize and Empower the Legislative Assembly to Levy a Tax for Each Year During Such Period of an Additional Levy of Not to Exceed Six (6) Mills on Each Dollar of Taxable Valuation for the Support, Maintenance and Improvement of the Six Units Now Comprising the University of Montana, together With the Agriculture Experiment Station and Its Branches and Substations, and the Agricultural Extension Service, Including the Soil Survey and the Grain Laboratory and to Appropriate So Much of the Money Derived Therefrom for Each Year During Said Period as May Be Necessary for Said Purposes, and Providing for the Submission of This Act to the Qualified Electors of the State of Montana at the Next General Election, Describing the Form of Ballots to Be Used and the Duties of the Secretary of State of the State of Montana Relative to the Submission of Said Act to the Qualified Electors of Said State; Providing When This Act Shall Take Effect, and Providing for Repeal of Chapter 217 of the Laws of 1947 and All Other Acts and Parts of Acts in Conflict Herewith Upon Approval of This Act by a Majority of All Votes Cast at the Referendum Election Herein Provided. 1285

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SESSION LAWS

CHAPTER 1

An Act to Fix the Compensation of Officers and Employees of the Thirty-sixth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Emergency declared.

Section 1. WHEREAS existing wage scales in effect at this time present an emergency requiring that the compensation of officers and employees of the thirty-sixth legislative assembly shall be paid a higher rate than that heretofore required, or which in all probability will be hereafter required, and notwithstanding the general law fixing the compensation of officers and employees of the legislative assemblies, and expressly without amending any such law or laws except to the extent that they shall not apply to the compensation of officers and employees of the thirty-sixth legislative assembly;

Compensation legislative officers, employees increased.

Compensation shall be paid to the officers and employees of the thirty-sixth legislative assembly as follows:

The Secretary of the Senate, the Chief Clerk of the House of Representatives, the Sergeant-at-arms of each house eighteen dollars ($18.00) per day. The Senate Law Clerks and House of Representatives Law Clerks eighteen dollars ($18.00) per day;

The assistant secretary of the Senate, the assistant chief clerks of the House of Representatives; the journal clerk, the enrolling clerk, engrossing clerk, the bill clerk, the chief printing clerk of each house; the assistant sergeant-at-arms of the Senate, the assistant sergeants-at-arms of the House of Representatives (in case such assistants are employed), the clerk of the Judiciary Committee, the clerk to the finance and claims committee of the Senate, the secretary to the judiciary committee, the secretary to the appropriations committee of the House, the Clerk to the Chief Clerk of the House, the stenographer to the secretary of the Senate, the chief stenographer of the Senate, the secretary to the Speaker of the House of Representatives, the secretary to the President of the Senate, the secretaries to the majority floor leaders of both Houses, the secretary to the sergeant-at-arms of each house, and the mimeograph clerk, fifteen dollars ($15.00) per day each.

The assistant journal clerk, the assistant bill clerk, the assistant enrolling clerk, the assistant engrossing clerk, the assistant printing clerk, the reading clerk, two chief proof readers, and the mailing clerk of both houses; the payroll clerk of the House of Representatives, the supply clerk of the House of Representatives, stenographers, and the mailing clerk and filing clerk of each house, twelve dollars ($12.00) per day each.

Other committee clerks, typists, other proof readers, and telephone operators, elevator operators of each house, eleven dollars ($11.00) per day each.

The Chaplain, door-keepers, janitors, assistant janitors, and watchman of each house, ten dollars ($10.00) per day each.

Pages, seven dollars ($7.00) per day each.

And all other employees of the legislative assembly not herein specifically enumerated, ten dollars ($10.00) per day each.

Each salary herein specified shall be paid for each and every day of the entire legislative session, commencing with the date of employment of the officer or employee, save and except that any officer or employee whose services are dispensed with for any portion of the session shall receive pay only for the number of days during which services are performed by such officer or employee.

Increased for 36th assembly only.

Section 2. The salaries herein specified to be paid to officers and employees shall be effective for and shall be paid only to such officers and employees of the thirty-sixth legislative assembly of the State of Montana and shall not be effective for nor payable to the officers and employees of any subsequent legislative assembly.

Effective Immediately.

Section 3. This act shall take effect and be in full force from and after its passage and approval.

Approved January 9, 1959.

CHAPTER 2

An Act to Approve and Legalize and Adopt as Prima Facie the Laws of Montana Replacement Volume Number 1 (in two parts) and to Adopt as Official Replacement Volume Number 9 of the Revised Codes of Montana of 1947, as published by the Publishers and Distributors of Said Code; and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Code replacement Volumes 1 and 9 adopted.

Section 1. That replacement volume number 1 (in two parts) of the Revised Codes of Montana of 1947, as published by the publishers and distributors of said Revised Codes of Montana of 1947 is hereby, as to both form and substance, approved, legalized and adopted as prima facie the laws of Montana now in force and effect with respect to the titles and subjects covered thereby. The sections of said replacement volume may be cited as sections of the Revised Codes of Montana of 1947 without reference to the session laws which enacted new matter or to the session laws which have amended the sections of the Revised Codes of Montana of 1947, as included in the original compilation of the Revised Codes of Montana of 1947. Replacement volume number 9 is hereby adopted as an official part of the Revised Codes of Montana of 1947 and as the general index to the said Revised Codes of Montana.

Saving clause, errors or omissions not to invalidate.

Section 2. Nothing herein contained shall be deemed as invalidating or in any manner affecting the legality of any act or thing heretofore or hereafter done by authority of any enactment which is not included in said replacement volumes and nothing herein contained shall affect the existence, validity, or enforcement of any act, enactment, or title thereof, statute, or code section, omitted from, or erroneously or incorrectly set forth in said replacement volumes.

Effective immediately.

Section 3. This act shall take effect and be in full force from and after its passage and approval.

Approved January 29, 1959.

CHAPTER 3

An Act Relating to Cancellation of Record of Special Improvement District Warrants and Liability Accounts in Rural Improvement Districts in Counties in Which Warrants or Liability Accounts Were Incurred or Issued Prior to February 25, 1929, and the Liability of Which Has Been Extinguished by Reason of Issuance of Tax Deeds, by Application of Statute of Limitations, or Other Laws of the State of Montana; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

County Commissioners authorized to cancel extinguished rural improvement accounts.

Section 1. The board of county commissioners in any county in the State of Montana is hereby authorized to cancel of record all or any special rural improvement district liability accounts incurred or issued prior to February 25, 1929, the liability of which has been extinguished by reason of issuance of tax deed, or by the application of the statute of limitations or other laws of the State of Montana.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved January 29, 1959.

CHAPTER 4

An Act to Amend Section 76-107 of the Revised Codes of Montana, 1947, Relating to the Appointment, Qualifications and Tenure of Soil Conservation District Supervisors by Authorizing the Supervisors to Appoint Supervisors for Vacancies Occurring in Said Office; Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending Clause.

Section 1. That Section 76-107 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Soil conservation supervisors, governing body.

"76-107. **Appointment, qualifications and tenure of supervisors.** The governing body of the district shall consist of five (5) supervisors, elected as provided hereinabove.

Chairman, terms, vacancies, quorum, and expenses.

"The supervisors shall annually elect a chairman from their members. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for terms of one (1) and two (2) years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected and has qualified. *Any vacancy occurring in the office of supervisor shall be filled by appointment by the remaining supervisors until the next regular election, when a successor shall be elected to serve the unexpired term.* A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

Employees, functions and records.

"The supervisors may employ a secretary and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the attorney general of the state for such legal services as they may require, or may employ their own counsel and legal staff. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the state soil conservation committee, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as may be required in the performance of its duties under this act.

"The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings, and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the state soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

Removal.

Consultation with municipality or county.

"The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved January 29, 1959.

CHAPTER 5

An Act to Amend Section 76-102, Revised Codes of Montana, 1947, Relating to Legislative Determinations and Declarations of Policy for Soil Conservation Districts; and Section 76-108, Revised Codes of Montana, 1947, Relating to the Powers of Soil Conservation Districts and Supervisors by Determining and Authorizing Soil Conservation Districts to Include Flood Prevention and the Conservation, Development, Utilization and Disposal of Water Within Their Program; Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 76-102 of the Revised Codes

of Montana, 1947, be, and the same is hereby amended to read as follows:

Determinations and declaration.

"76-102. **Legislative determinations, and declaration of policy.** It is hereby declared, as a matter of legislative determination:

Erosion.

A. **The condition.** That the farm and grazing lands of the State of Montana are among the basic assets of the state and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this state by wind and water; that the breaking of natural grass, plant, and forest-cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any land occupier to conserve the soil and control erosion upon his lands causes a washing and blowing of soil and water from his lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

Consequences or erosion.

B. **The consequences.** That the consequences of such soil erosion in the form of soil-blowing and soil-washing are the silting and sedimentation of stream channels, reservoirs, dams and ditches; the loss of fertile soil material in dust storms; the piling up of soil in lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops and range cover grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought and causes crop and range vegetation cover failures; and increase in the speed and volume of rainfall run-off, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to operate eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms, and losses in municipal water supply, irrigation developments, farming and grazing.

Conservation.

C. **The appropriate corrective methods.** That to conserve soil resources and control and prevent soil erosion, *and prevent floodwater and sediment damages and further the conservation, development, utilization and disposal of water,* it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices *and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water* be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operation such as the construction of water spreaders, terraces, terrace outlets, check dams, *desilting basins, floodwater retarding structures, channel improvements, floodways, land drainage,* dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; *land drainage;* land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees and grasses; forestation and reforestation; rotation of crops, restriction of number of livestock grazed, deferred grazing, rodent eradication; soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops; retardation of run-off by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

Policy.

D. **Declaration of policy.** It is hereby declared to be the policy of the legislature to provide for the conservation of soil and soil resources of this state, and for the control and prevention of soil erosion, *and for the prevention of floodwater and sediment damages, and for furthering the conservation, development, utilization, and disposal of water,* and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, preserve wildlife, protect the tax base, protect public lands and protect and promote the health, safety, and general welfare of the people of this state.''

Amending clause.

Section 2. That Section 76-108 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Soil conservation district governmental subdivision.

''76-108. **Powers of districts and supervisors.** A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act:

Powers.

Surveys.

(1) To conduct surveys, investigations, and research relating to the character of soil erosion, *floodwater and sediment damages, and to the conservation, development, utilization, and disposal of water* and the preventive and control measures *and works of improvement* needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures *and works of improvement;* provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

Demonstrations.

(2) To conduct demonstrational projects within the districts on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and

controlled, *and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water may be carried out;*

Flood prevention and water conservation.

(3) To carry out preventive and control measures *and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water* within the district, including, but not limited to, engineering operations, range management, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection C of Section 76-102, on lands owned or controlled by this state or any of its agencies with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands of the necessary rights or interest in such lands;

Cooperation with other agencies or occupier.

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion-control and prevention operations, *and works of improvement for flood prevention and the conservation, development, utilization and disposal of water* within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act;

Acquisition and management of property.

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein, and all such property shall be exempt from taxation by the state or any political subdivision thereof, to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this act;

Assistance to land occupiers.

(6) To make available on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment, as will assist such land occupiers to carry on oper-

ations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion, *and for flood prevention and the conservation, development, utilization, disposal of water;*

(7) To construct, improve, *operate* and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act; **Maintenance of structures.**

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion, *and for flood prevention, and conservation, development, utilization, and disposal of water* within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable, for the effectuation of such plans, including the specification of engineering operations, range management, methods of cultivation, the growing of vegetation, cropping and range programs, tillage and grazing practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district; **Plans.**

(9) To take over, by purchase, lease, or otherwise, and to administer any soil-conservation, *flood-prevention, drainage, irrigation, water-management,* erosion-control, or erosion-prevention project, *or combinations thereof,* located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, *flood-prevention, drainage, irrigation, water-management,* erosion-control, or erosion-prevention project, *or combination thereof,* within its boundaries; to act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, *flood prevention, drainage, irrigation, water-management,* erosion-control, or erosion-prevention projects, *or combination thereof,* within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations; **Acquisition and administration of projects.**

General powers.

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not consistent with this act, to carry into effect its purposes and powers;

Condition of benefits.

(11) As a condition to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion *and prevent floodwater and sediment damages* thereon;

Provisions not applicable.

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state."

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved January 30, 1959.

CHAPTER 6

An Act to Amend Section 54-125, Revised Codes of Montana, 1947, Relating to Penalties for Violation of the Narcotic Drug Act; to Provide for Increasing the Penalty to One (1) to Five (5) Years Upon Conviction of First Offense; and to Provide Further for a Penalty of from Five (5) to Twenty (20) Years Upon a Subsequent Conviction.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 54-125 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"54-125. **Penalties.** Any person violating any provision of this act shall upon conviction be punished, for the first offense, by *imprisonment in the state prison for not less than one (1), nor more han five (5) years. Upon a subsequent conviction for violation of any provision of this act, the penalty shall hereby be imprisonment in the state prison for not less than five (5), nor more than twenty (20) years.* Any person who sells, barters, exchanges, distributes, gives away, or in any manner disposes of any of the drugs in violation of the provisions of this act, to any person of the age of eighteen (18) years, or under, shall upon conviction be punished by imprisonment in the state prison for not less than five (5) years nor more than life."

Penalties.

First offense.

Subsequent conviction.

Disposition to person 18 or under.

Approved February 2, 1959.

CHAPTER 7

An Act to Establish a Permanent Law Enforcement Academy for the State of Montana; Providing for an Advisory Board to Govern Such Academy; Providing for Powers and Duties of the Advisory Board; Establishing Rights of Officers Attending the Academy; Providing That the Expenditure of County, City, Town and Municipal Funds for This Purpose Shall Be a Lawful Expenditure; Providing for an Effective Date and Repealing All Other Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Act, how cited.** This act may be cited as the "Montana Law Enforcement Academy Act."

How cited.

Section 2. **Purpose.** The purpose of this act shall be to establish a Montana Law Enforcement Academy to provide Montana law enforcement officers with a means of securing additional training in the field of law enforcement.

Purpose.

Section 3. **Establishment of Montana Law Enforcement Academy.** There is hereby established a Montana

Establishment or Law Enforcement Academy.

Law Enforcement Academy to be located at one of the units of the University of Montana, which unit shall be selected in the manner hereinafter provided. This academy shall be in session for a period not to exceed three weeks in any one year.

Law enforcement officers eligible.

Section 4. **Eligibility.** All bona fide Montana law enforcement officers shall be eligible to apply for admission to this academy.

Advisory board, appointment of.

Section 5. **Advisory board.** The Montana Law Enforcement Academy shall be governed by an advisory board composed of one representative of each of the following organizations or departments to be appointed by the president, chief executive or officer in charge of each of the following departments or organizations: The Montana Sheriffs and Peace Officers Association, The Montana Chiefs of Police Association, The County Attorneys Association, the Attorney General's Office, The Montana Municipal League, The Montana County Commissioners Association and that unit of the University of Montana selected as a site for the academy. The representative of the University unit shall be selected after the site has been determined by the other members of the Montana Law Enforcement Academy advisory board. The members of the advisory board shall be appointed for a term of one year and shall serve without compensation.

Powers and duties of advisory board.

Section 6. **Powers and duties of the Montana Law Enforcement Academy advisory board.** The Montana Law Enforcement Academy advisory board shall have the power and it shall be its duty to:

1. Establish rules and regulations for the government and conduct of the advisory board.

2. Choose a site for the Montana Law Enforcement Academy at the unit of the University of Montana which in the determination of the board is best suited for the needs of the academy.

3. Establish qualifications for admission to the academy.

4. Select from among the qualified applicants those officers who are to attend the academy each year.

5. Determine the curriculum and methods of training for the officers attending the academy.

6. Select a faculty for the academy.

7. Establish rules for the conduct of the officers at the academy.

8. Award appropriate certificates to the officers who successfully complete their training; which certificate shall be signed by the chairman of the advisory board, the attorney general of the State of Montana and the president of the selected university unit.

9. Provide for the keeping of permanent records of enrollment, attendance, graduation and such other records as the board may deem necessary.

10. Make a yearly report in writing of the activities of the academy. Copies of this report shall be sent to the governor, attorney general, and secretary of state of the State of Montana.

11. Do all other things necessary and desirable for the establishment and operation of the academy not inconsistent with this act or the Constitution and statutes of the State of Montana.

Rights during attendance.

Section 7. **Rights of officers attending academy.** All officers shall be paid their regular salary during their attendance at the academy, and time spent in such attendance shall not be deducted from the vacation to which any attending officer is entitled. No officer shall lose any pension, seniority or other rights by reason of attendance at the academy.

Expenditures authorized.

Section 8. **Expenditure of funds.** The expenditure of funds by any city, town, municipality or county for the board, room and travel expenses of the officers attending the academy shall be a lawful expenditure. All counties of the State of Montana shall be allowed to expend an amount of money not to exceed ninety dollars ($90.00) for the board and room of the officers attending the academy.

Effective immediately.

Section 9. **Effective date.** This act shall be effective from and after its passage and approval.

Repealing clause.

Section 10. **Repealing clause.** All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 3, 1959.

CHAPTER 8

An Act to Amend Section 11-1823 as Amended by Chapter 78, Montana Session Laws of 1937 and Chapter 78, Montana Session Laws of 1949, Revised Codes of Montana, Relating to the Tax Levy for the Payment of Police Reserves in Cities and Towns of the First and Second Class in the State of Montana and Specifying the Limitation of Such Levies; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 11-1823 as amended by chapter 78 of the Montana session laws of 1937 and chapter 78 of the Montana session laws of 1949, be, and the same is hereby amended to read as follows:

One mill levy for salaries of reserve list policemen.

"11-1823. (5108.7) **Fund for payment of officers on reserve lists—tax levy.** For the purpose of paying the salaries of policemen who have been placed upon the reserve list of the cities of the first and second class, the city or town council, or commissioners, shall in the manner provided for by law, and at the time of the levy of the annual tax, levy such special tax of not to exceed one (1) mill on the dollar upon the assessed valuation of all taxable property within the limits of said city or town, which said tax shall be collected as other taxes and when so collected, shall be paid into the fund created for the payment of such salaries of police officers upon the reserve list.

Two-mill levy when fund insufficient.

However, in case the demand against such fund shall be heavier than said levy can provide, then and in such case such additional levy of not to exceed *two (2) mills* may be made until such returns from the first mill levy be sufficient to meet the demand."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 4, 1959.

CHAPTER 9

An Act to Amend Section 25-231, Revised Codes of Montana, 1947, as Amended by Chapter 90, Laws of 1953, as Amended by Chapter 202, Laws of 1955, and as Amended by Chapter 148, Laws of 1957, Relating to Fees of County Clerks and Recorders; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 25-231, Revised Codes of Montana, 1947, as amended by chapter 90, Laws of 1953, as amended by chapter 202, laws of 1955, and as amended by chapter 148, laws of 1957, be, and the same is hereby amended to read as follows:

Fees of county clerks.

"25-231. (4917) **Fees of county clerks.** The fees of county clerks, which must be charged and collected for the use of their respective counties, are as follows:

For recording and indexing each instrument of writing allowed by law to be recorded; except as hereinafter provided;

For first folio, *sixty cents (60¢)* and for each subsequent folio or fraction thereof, *thirty cents (30¢);*

For each entry in index, *twenty cents (20¢);*

For certificate that such instrument has been recorded with seal affixed, *one dollar ($1.00);*

For recording and indexing each real estate mortgage, assignment, renewal, or release of real estate mortgage;

For each folio, *forty cents (40¢);*

For each entry in index, *twenty cents (20¢);*

For certificate that such mortgage, assignment or release has been recorded with seal affixed, *one dollar ($1.00);*

For recording and indexing each certificate of location of quartz or placer mining claim, millsite claim, or notice of appropriation of water, including certificate that such instrument has been recorded with seal affixed, *four dollars ($4.00);*

For recording and indexing each affidavit of annual labor on mining claim, including certificate that such instrument has been recorded with seal affixed, *two dollars ($2.00)* for the first mining claim in said affidavit, and *fifty cents (50¢)* for each additional mining claim described and included therein;

For filing and indexing each chattel mortgage, affidavit of renewal of chattel or real estate mortgage, assignment or release of chattel mortgage, a writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, *one dollar ($1.00);*

For filing and indexing each certificate of incorporation or annual statement of any corporation, *two dollars ($2.00);*

For recording and platting each town site or map;

For each lot up to and including one hundred, *fifty cents (50¢)*;

For each additional lot in excess of one hundred, *ten cents (10¢);*

For recording the field notes of survey of any town site, per folio, *fifty cents (50¢);*

''Provided that in all cases where recording is done by photographic or similar process the fee to be charged by the county clerk and recorder for filing and indexing the same shall be two dollars ($2.00) for each page or fraction thereof of said instrument.

''For a copy of any record or paper, for each folio, *thirty cents (30¢)* and for each certification with seal affixed, *one dollar ($1.00);* provided, that in all cases where copies of any record or paper are to be certified by the county clerk and such copy is furnished to said clerk for certification, said clerk shall not make a charge nor receive a fee for the comparison of such copy, other than the fee of *one dollar ($1.00)* for his certificate and seal.

''For searching any index record of files of the office, for each year when required, in abstracting or otherwise, *thirty cents (30¢);*

''For each entry of discharge or satisfaction of mortgage, lien, or other instrument on the margin of record thereof, or upon the original instrument, and noting same in the indexes concerned, *fifty cents (50¢);*

"For administering an oath with certificate and seal he shall make no charge;

"For taking and certifying an acknowledgment, with seal affixed, for signature thereto he shall make no charge;

Instruments pertaining to Indians.

"For recording and indexing any instrument which may be recorded pursuant to the provisions of section 73-104, Revised Codes of Montana, 1947, and which pertains to land allotted to an Indian or land within an Indian Reservation, except fee patents, he shall make no charge;

"For filing or recording or indexing any other instrument not herein expressly provided for, the same fee as hereinbefore provided for a similar service.

Endorsement of charges.

"On each instrument delivered to him for recording, it shall be the duty of the county clerk to endorse thereon all charges made by him for such service and such endorsement shall be recorded as a part of the instrument in his office in order that the state examiner may verify such charges from time to time and may see that they have been properly entered on the fee book or reception record in the county clerk's office."

Repealing clause.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Approved February 4, 1959.

CHAPTER 10

An Act to Amend Section 81-908 of the Revised Codes of Montana, 1947, Which Section Is Part of Chapter 9 of Title 81 Relating to the Sale of State Lands; by Providing That Limitations as to Area and Irrigableness Shall Not Apply to Lands Within a Federal Irrigation Project Where the Congress of the United States Now or Hereafter Authorizes Water to Be Furnished to an Area Exceeding One Hundred and Sixty (160) Irrigable Acres; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 81-908 of the Revised Codes of

Montana, 1947, be, and the same is hereby amended to read as follows:

Who qualified to purchase state lands.

"81-908. (1805.71) **Who may purchase and how much.** State lands shall be sold only to citizens of the United States or to persons who have declared their intentions to become citizens, or to corporations organized under the laws of this state. No person shall be qualified to purchase state land who has not reached the age of twenty-one (21) years. As far as possible to determine the lands shall be sold only to actual settlers or to persons who will improve the same, and not to persons who are likely to hold such lands for speculative purposes intending to resell the same at a higher price without having added anything to their value. No person or corporation shall be entitled to purchase more than one section of state land, and this area shall not include more than one hundred and sixty (160) acres of land susceptible of irrigation. These limitations as to area and irrigableness shall not apply to land acquired by the state in connection with the foreclosure of its mortgages, *or to lands within a federal irrigation project wherein the Congress of the United States of America now or hereafter authorizes water to be furnished to an area exceeding one hundred and sixty (160) irrigable acres.*

Not for speculation.

Limitations.

"State lands may be sold to any sovereign state of the United States or to any board of trustees or public corporation or agency of such state created by such state as an agency or political subdivision thereof. Said lands may be purchased in the quantities set forth in this section for use by such state, board of trustees, public corporation, agency, or political subdivision for educational or scientific purposes.

"The title to any state lands which have been heretofore purchased by a sovereign state or a board of trustees or public corporation, agency or political subdivision thereof qualified under the provisions of this act is hereby ratified and confirmed."

Effective immediately.

Section 2. **Effective date.** This act shall be in full force and effect on and after its passage and approval.

Approved February 4, 1959.

CHAPTER 11

An Act to Amend Section 16-1030 of the Revised Codes of Montana of 1947 Relating to the Lease of County Property; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-1030 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Authority of board of county commissioners to lease county lands.

"16-1030. (4465.27) **Lease of county property.** The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law: To lease and demise county property, however acquired, which is not necessary to the conduct of the county's business or the preservation of county property and for which immediate sale cannot be had. Such leases shall be in such manner and for such purposes as, in the judgment of the board, shall seem best suited to advance the public benefit and welfare, and all revenue derived therefrom, except as otherwise provided, shall be paid into the county treasury. On the tenth day of January and the tenth day of July in each year the county treasurers shall distribute such revenues to the several county and trust and agency funds on the basis of the tax levy for the preceding calendar year. All such property must be leased subject to sale by the board, and no lease shall be for a period to exceed *ten (10)* years, save and except as to deposits of coal only or coal and the surface above the same, owned by any county or to which any county has heretofore or may hereafter acquire title by tax title, tax deed or otherwise, which lease or leases may be for a period of ten years and to run and continue as long thereafter as coal is being mined and extracted from the leased property in commercial quantities and that as to all such deposits of coal only or coal and surface the provisions of sections 2208.1 and 2235 of the Revised Codes of the State of Montana, A. D. 1935 and all other provisions of the laws of Montana relating to the sale by the county commissioners of a county of property owned by the county or acquired by tax title or otherwise shall be suspended during the time any such lease or leases of coal only or

Revenue paid into county treasury.

Distribution of revenues.

Property leased subject to sale and maximum period of ten years except coal lands.

Coal land lease to run as long as coal is mined in commercial quantities.

Suspension clause.

coal and surface made hereunder shall be in force and effect."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved February 4, 1959.

CHAPTER 12

An Act to Amend Section 26-907, Revised Codes of Montana, 1947, Relating to Taxidermist's License, Fee, and Penalty for Violation of the Act; to Provide for a Record to be Kept, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 26-907, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Taxidermist's license and fee.

Taxidermist must keep record of game for inspection by state game warden.

Penalty for violation.

"Section 26-907. (3751) **Taxidermist's license—Fee penalty for violations.** Any person who shall engage in, or who is at the present time engaged in conducting any taxidermist business, as the term is generally understood, or any person who conducts a business for the purpose of mounting, preserving or preparing any of the dead bodies of any birds, or animals, or any part thereof, mentioned in the game laws of this state, must first obtain from the state fish and game director a taxidermist's license and shall pay an annual license fee of fifteen dollars ($15.00) therefor. Such person shall, *keep* a written *record* of all the articles of game, the kind and number of each, by whom owned, *license number,* and the residence of owner, also of all the articles of game shipped, and to whom and where shipped. *The above record shall be kept for at least a period of one (1) year and open to inspection by any state game warden at any reasonable time.* Any person violating the provisions hereof shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by section 26-324. In all cases of conviction of violation of this act the license of the person convicted shall be revoked."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 4, 1959.

CHAPTER 13

An Act to Amend Section 3, Chapter 44, Laws of 1957, Relating to the Payment of the Korean War Veterans' Honorarium or Adjusted Compensation to the Widows, or Orphans, or Parents, as the Case May be, Whose Husbands, or Fathers, or Sons Have Died Prior to the Payment of the Honorarium or Adjusted Compensation Provided by Chapter 44, Laws of 1957; Providing That Such Payment Shall be in the Amount Specified In Section 2, Chapter 44, Laws of 1957; Providing that Nothing In This Act Shall be Deemed to Amend, or In Any Way Alter the Provisions of Sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13 of Chapter 44, Laws of 1957; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing An Effective Date Hereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 3, chapter 44, Laws of 1957, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 3. In the case of the death of any such serviceman prior to payment under this law, the amount specified in section 2 of this amendatory act, shall be paid as follows:

Provision for payment of compensation to widows, orphans or parents of deceased Korean war veterans.

(1) To his or her surviving spouse, provided such spouse, if a widow, has not remarried prior to making application for such payment, or

(2) If there is no surviving spouse, or if a widow and she is deceased or has remarried prior to making such application, then to the child or children who shall be living when such payment is made, in equal shares if more than one, and all thereof if only one; or

(3) If there is no surviving spouse, or if there was a widow and she has remarried or is deceased, and if there

are no surviving children, then such payment shall be made to the parents of the deceased, or if one of them shall be deceased, then the whole thereof to the parent who survives; or if both parents be deceased, then no payment shall be made.

Payment to living persons only.

(4) The payments in this paragraph provided for shall be made only to the persons herein designated who shall be living at the time of payment, and no payment shall be made to the estate of any such person."

Section 2. Nothing in this act shall be deemed to amend or in any way alter the provisions of Sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13 of chapter 44, Laws of 1957.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 4, 1959.

CHAPTER 14

An Act to Amend Section 80-720, Revised Codes of Montana, 1947, Relating to the Employment of Prisoners at Montana State Prison; to Provide that the Board of State Prison Commissioners, Upon Recommendation of the Warden, may Make Incentive Payments of Money to Prisoners Employed in Prison Industries; to Provide that the Board Shall Authorize the Payment of Wages Ranging from Two Cents (2¢) to Fifty Cents (50¢) Per Day Depending On Job Grades; to Establish Certain Criteria On Which to Base Such Job Grades; to Provide that All Such Wage Payments Shall be Paid from the Industrial Revolving Fund, and to Repeal All Acts Or Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 80-720, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"80-720. (12447) **Employment of convicts.** If, at any time, the board is of the opinion that it would be to the interest of the state to employ any portion of the prisoners, either within or without the walls or enclosures of the state prison, either in improvement of the public grounds or buildings or otherwise where they may be profitably employed, it has power to so employ such labor; it must, in such case, direct the warden accordingly in writing, and cause a record of such order to be entered at length on the records of the board. *The board may, upon recommendation of the warden of the Montana State Prison, make payments of money to any inmate of the state prison as an incentive to satisfactorily perform his or her work in the various prison industries. It shall be the duty of the board to authorize the payment of wages ranging from two cents (2¢) to fifty cents (50¢) per day depending on job grades. All jobs shall be graded according to the following criteria:*

Authority of board of state prison commissioners to employ prison labor.

Payment of incentive wages.

Duty of board to authorize payment of wages according to job grades.

(a) Knowledge

(b) Skill

(c) Physical effort

(d) Responsibility for equipment and materials

(e) Regard for safety of others

(f) Working conditions.

All wages paid hereunder shall be paid from the 'industrial revolving fund' as established by section 94-35-152.13, Revised Codes of Montana, 1947."

Wages to be paid from industrial revolving fund.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 4, 1959.

CHAPTER 15

An Act to Repeal Section 80-721 of the Revised Codes of Montana, 1947, Relating to the Maintenance and Operation of a Prison Wearing Apparel Factory; to Repeal Section 80-722 of the Revised Codes of Montana, 1947, Relating to the Prison Factory Revolving Fund;

to Repeal Section 80-723 of the Revised Codes of Montana, 1947, Relating to the Employment of Prison Labor for the Prison Wearing Apparel Factory; to Repeal Section 80-724, Revised Codes of Montana, 1947, Relating to Agreements Relative to State Uses of the Products of the Prison Wearing Apparel Factory; to Repeal Section 80-725 of the Revised Codes of Montana, 1947, Relating to the Establishment of a Prison Tannery; to Repeal Section 80-726 of the Revised Codes of Montana, 1947, Relating to the Operation of the Prison Tannery; to Repeal Section 80-727 of the Revised Codes of Montana, 1947, Relating to Prices Charged for Treatment of Hides; to Repeal Section 80-728 of the Revised Codes of Montana, 1947, Relating to Sale of State-Owned Hides; to Repeal Section 80-729 of the Revised Codes of Montana, 1947, Relating to the Supervision of the Operation of the Tannery; to Repeal Section 80-730 of the Revised Codes of Montana, 1947, Relating to the Manufacture and Use of Prison-Made Brick; to Repeal Section 80-734 of the Revised Codes of Montana, 1947, Relating to the State Prison Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Repeal of Sections 80-721 through 80-730 and Section 80-734, R.C.M., 1947, pertaining to prison industries and funds.

Section 1. That section 80-721 of the Revised Codes of Montana, 1947; section 80-722 of the Revised Codes of Montana, 1947; section 80-723 of the Revised Codes of Montana, 1947; section 80-724 of the Revised Codes of Montana, 1947; section 80-725 of the Revised Codes of Montana, 1947; section 80-726 of the Revised Codes of Montana, 1947; section 80-727 of the Revised Codes of Montana, 1947; section 80-728 of the Revised Codes of Montana, 1947; section 80-729 of the Revised Codes of Montana, 1947; section 80-730 of the Revised Codes of Montana, 1947; and section 80-734 of the Revised Codes of Montana, 1947, be, and the same are hereby repealed.

Approved February 5, 1959.

CHAPTER 16

An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments Or Obligations, Heretofore Issued by Public Bodies of This State, and All Proceedings Heretofore Taken by Such Public Bodies, to Authorize and Issue Such Bonds, Instruments and Other Obligations, However Described, and Providing That This Act May be Cited as 'The 1959 Bond Validating Act'; Containing a Repealing Clause and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

"1959 bond validating act."

Section 1. This act may be cited as "The 1959 Bond Validating Act."

Section 2. The following terms, wherever used or referred to in this act, shall have the following meaning:

"Public body," defined.

(1) The term "public body" shall include a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other political or governmental subdivision of the State of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission, or any other governmental agency of this state.

"Bonds" defined.

(2) The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Validation of public bonds.

Section 3. All bonds heretofore issued for any of the purposes for which bonds may be issued by any public body of this state and all proceedings heretofore taken for the authorization and issuance of bonds by such public body, and the sale, exchange, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution or delivery, and bonds of such public bodies, whether heretofore issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such political body.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 5. This act shall be in force and effect from and after its passage and approval.

Approved February 5, 1959.

CHAPTER 17

An Act to Amend Section 35-414 of the Revised Codes of Montana, 1947, Relating to the Termination of Operation of Housing Facilities Acquired Pursuant to the Emergency War and Veterans' Housing Facilities Act of the State of Montana; to Provide for Extending the Date of Termination of Operation from May 1, 1959 to May 1, 1961; Providing An Effective Date; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 35-414 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Operation of housing facilities extended to May 1, 1961.

"35-414. **Termination of operation.** The operation and maintenance of any housing facility acquired pursuant to this act may be terminated at any time if consistent with the terms of the federal act under which it was acquired, or if the legislature determines that the necessity therefor no longer exists, but in no event shall such housing facility be operated and maintained by any local agency after the first day of May, *1961.*

Liquidation of housing facility to secure greatest return.

Land may be retained.

When any housing facility is discontinued, in whole or in part, it shall be liquidated in such manner as will secure the greatest return to the local agency; provided, however, that any lands acquired under this act may be retained by the local agency. The term 'liquidated' as used in this section, in so far as the same pertains to any temporary housing facility dwelling structures, shall mean and include dismantling, and disposal thereof by the local agency for purposes other than a dwelling place for human beings.''

"Liquidated" defined.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect after its passage and approval.

Effective immediately.

Approved February 5, 1959.

CHAPTER 18

An Act to Amend Section 23-503, Revised Codes of Montana, 1947, as Amended by Chapter 83, Laws of 1953; Section 23-511, Revised Codes of Montana, 1947; Section 23-1302, Revised Codes of Montana, 1947, as Amended by Chapter 104, Laws of 1953; Section 23-1303, Revised Codes of Montana, 1947; As Amended by Chapter 152, Laws of 1955; Section 23-1306, 23-1401, 23-1402, 23-1403, 23-1404, 23-1405, Revised Codes of Montana, 1947; to Permit Electors in the United States Service to Become Registered by Mailing to County Clerk a Federal Post Card Application, to Except Cancellation of Registry for Failure to Vote by Persons in the United States Service, to Permit Application for Official Ballot by Persons in the United States Service, to Prescribe Form of Application for Persons in United States Service, to Prescribe Form of Ballot Envelope and Return Envelope for Electors in United States Service, to Define Electors in the United States Service and Other Terms, to Prescribe the Form of the Federal Post Card Application, to Prescribe Officials Permitted to Administer Oaths Required by Electors in United States Service, and to Prescribe the Classification of Federal Post Card Applications.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 23-503 of the Revised Codes

Amending clause.

of Montana, 1947, as amended by chapter 83 of the Laws of 1953, be, and the same is hereby amended to read as follows:

Method of registering with county clerk.

"23-503. (555) **Method of registering.** Any elector residing within the county may register by appearing before the county clerk and ex officio registrar and making correct answers to all questions propounded by the county clerk touching the items of information called for by such registry card, and by signing and verifying the affidavit or affidavits on the back of such card. *Any elector in the United States Service who is absent from the State of Montana and the county of which he or she is a resident may register either (a) by mailing such registry card filled out and signed under oath to the county clerk of the county in which said elector resides, or (b) by mailing the Federal Post Card Application filled out and signed under oath to said county clerk.*

Absentee elector may register by mailing registry card or federal post card application to county clerk.

Penalty for false registration.

"If any person shall falsely personate another and procure the person so personated to be registered, or if any person shall represent his name to the county clerk or to the registration clerk or to any other person qualified to register an elector, to be different from what it actually is, and cause such name to be registered, or if any person shall cause any name to be placed upon the registry lists otherwise than in the manner provided in this act, he shall be guilty of a felony, and upon conviction be imprisoned in the state penitentiary for not less than one (1) nor more than three (3) years."

Felony.

Amending clause.

Section 2. That section 23-511 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

County clerk shall remove registry cards of electors who fail to vote except cards of electors in United States service.

"23-511. (562) **Cancellation of registry for failure to vote—Reregistration—Exception of persons in** ***United States service.*** Immediately after every general election, the county clerk of each county shall compare the list of electors who have voted at such election in each precinct, as shown by the official poll books, with the official register of said precinct, and he shall remove from the official register herein provided for the registry cards of all electors who have failed to vote at such election, and shall mark each of said cards with the word 'cancelled', and shall place such cancelled cards for the entire county in alphabetical order in a separate drawer to be known as the 'cancelled file'; but any elector whose card is thus removed from the official register may reregister in the same manner as his original registration was made, and the registration card of any elector who thus reregisters shall be filed by the county clerk in the official register in the same manner as original registration cards are filed. The county clerk shall, at the same time, cancel, by drawing a red line through the entry thereof, the name of all such electors who have failed to vote at such election.

In the case of an elector in the United States Service who shall fail to vote, his or her registry card shall not be cancelled, except for causes designated under Section 23-518."

Amending clause.

Section 3. That section 23-1302 of the Revised Codes of Montana, 1947, as amended by chapter 104 of the Laws of 1953, be, and the same is hereby amended to read as follows:

Absentee elector or physically incapacitated person may apply for absentee ballot within 45 days preceding election.

"23-1302. (716) **Application of absentee or physically incapacitated person for ballot.** At any time within forty-five (45) days next preceding such election, any *elector* expecting to be absent on the day of election from the county in which his voting precinct is situated, or *any elector in United States Service, or any elector who* as a result of physical incapacity, in all probability will be unable to attend his voting precinct poll as made to appear by the certificate of a physician licensed under the laws of Montana, plainly stating the nature of the physical incapacity of the applicant, and certifying (a) that such incapacity will continue beyond the day of the election for which the application is made; (b) to the extent of reasonably preventing applicant from going to the polls, bodily health considered, may make application to the county clerk of such county, or to the city or town clerk, in the case of a municipal, general, or primary election, for an official ballot or official ballots to be voted at such election as an absent or physically incapacitated voter's ballot or ballots."

Amending clause.

Section 4. That section 23-1303 of the Revised Codes of Montana, 1947, as amended by Chapter 152 of the

Laws of 1955, be, and the same is hereby amended to read as follows:

Form of application for absentee ballot.

"23-1303. (717) **Form of application.** Application for such ballots shall be made on a blank furnished by the county clerk of the county of which the applicant is an electer, or the city or town clerk, if it be municipal, general, special or primary election, and shall be in substantially the following form:

" 'I, ... a duly qualified elector of the .... precinct, in the county of ...., and State of Montana, and am to the best of my knowledge and belief entitled to vote in such precinct in the next election, expecting to be absent from said county or, in all probability, to be physically incapacitated from going to my precinct poll on the day for holding such election, hereby make application for an official ballot to be voted by me at the said election.

....

Post office address to which ballot is to be mailed

....

....

State of ....}
}ss.
County of ....}

On this .... day of............................., personally appeared before me......................................, who being first duly sworn, deposes and says that he is the person who signed the foregoing application, that he has read and knows the contents of same and knows to his own knowledge the matters and things therein stated are true.

....

....,

Application under oath except federal post card application or written request addressed to county clerk of residence.

"This application must be subscribed by the applicant and sworn to before some officer authorized to administer oaths, and the application shall not be deemed complete without this affidavit.

"Provided that application for such ballot by any *elector in the United States may be made by the Federal Post Card Application, or by any written request, signed by said applicant, addressed to the county clerk of the county of residence of said elector."*

Section 5. That section 23-1306 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"23-1306. (720) **Mailing ballot to elector—Form of return and affidavit.** Upon receipt of such application, properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been printed, the said county or city or town clerk shall send to such elector by mail, postage prepaid, one official ballot, or if there be more than one ballot to be voted by an elector of such precinct, one of each kind, and shall inclose with such ballot or ballots an envelope, to be furnished by such county or city or town clerk, which envelope shall bear upon the front thereof the name, official title and post office address of such county or city or town clerk, and upon the other side a printed affidavit, in substantially the following form:

Provision for mailing absentee official ballot with printed affidavit.

'State of ....}
}ss.
County ....}

I, ..., do solemnly swear that I am a resident of the .... precinct, (and if he be a resident of a city or town, Add: 'Residing at ...., in the town or city of.................. ....'), County of .... and State of Montana, and entitled to vote in such precinct at the next election; that I expect to be absent from the said county of my residence or, in all probability, to be physically incapacitated from going to my precinct poll on the day of holding such election and that I will have no opportunity to vote in person on that day.

....

Subscribed and sworn to before me this......................day of ...., 19........; and I hereby certify that the affiant exhibited to me the enclosed ballot or ballots for inspection before marking, and that the same was (or were) then unmarked and that he then in my presence, and in the presence of no other person, and in such manner that I could not see his vote, marked said ballot (or ballots) and inclosed and sealed the same in this envelope. That the affiant was not solicited or advised by me to vote for or against any candidate or measure.

....

....,

Form of prescribed envelopes.

"Both the envelope in which the ballot is mailed to the elector in the United States Service and the return envelope enclosed therein shall have printed across the face two parallel horizontal red bars, each one-quarter inch wide, extending from one side of the envelope to the other side, with an intervening space of one-quarter inch, the top bar to be one and one-quarter inches from the top of the envelope, and with the words "Official Election Balloting Material — via Air Mail", or similar language, between the bars; that there be printed in the upper right corner of each such envelope, in a box, the words "Free of U. S. Postage, Including Air Mail"; that all printing on the face of each such envelope be in red; and that there be printed in red in the upper left hand corner of each state ballot envelope an appropriate inscription or blanks for return address of sender.

"The return envelope shall be self-addressed to the county or city or town clerk.

"The county or city or town clerk shall enclose with the ballot mailed to the elector in the United States Service instructions for voting and returning the ballot."

Amending clause.

Section 6. That Section 23-1401 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Official war registration card.

"23-1401. **Registration of absent electors in** *United States Service. Any elector of this state in the United States Service who is absent from the State of Montana and the county of which he or she is a resident shall be entitled to register by mailing to the county clerk a Federal Post Card Application filled out and signed under oath, which shall be the 'OFFICIAL WAR REGISTRATION CARD' of the state."*

Section 7. That Section 23-1402 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"23-1402. *Definition of Electors in United States Service. The phrase 'elector in the United States Service' as used in the Revised Codes of Montana of 1947, as amended, shall include the following:*

"Elector in United States service" defined.

(1) Members of the Armed Forces while in the active service, and their spouses and dependents.

(2) Members of the merchant marine of the United States, and their spouses and dependents.

(3) Civilian employees of the United States in all categories serving outside the territorial limits of the several States of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not the employee is subject to the civil service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by the Congress.

(4) Members of religious groups or welfare agencies assisting members of the armed forces, who are officially attached to and serving with the armed forces, and their spouses and dependents."

Section 8. That Section 23-1403 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"23-1403. *The Federal Post Card Application. The form of the Federal Post Card Application, which may be used both as an application for registration and for a ballot, shall be as follows:*

Form of Federal post card application.

(a) The cards shall be approximately nine and one-half (9-1/2) by four and one-eighth (4-1/8) inches in size.

(b) Upon one side, perpendicular to the long dimension of the card, there shall be printed in black type the following:

FILL OUT BOTH SIDES OF CARD
POST CARD APPLICATION FOR ABSENTEE BALLOT

State or Commonwealth of..
(Fill in name of State or Commonwealth)

(1) I hereby request an absentee ballot to vote in the coming election:

(GENERAL) (PRIMARY)* (SPECIAL) ELECTION
(Strike out inapplicable words)

*(2) *If a ballot is requested for a primary election, print your political party affiliation or preference in this box:* ☐

(If primary election is secret in your state, do not answer).

(3) I am a citizen of the United States, eligible to vote in above state, and am:

a. A member of the Armed Forces of the United States ☐

b. A member of the merchant marine of the United States ☐

c. A member of a religious or welfare organization assisting servicemen ☐

d. A civilian employed by the United States Government outside the United States (continental) ☐

e. A spouse or dependent of a person listed in (a), (b), or (c) above. ☐

f. A spouse or dependent residing with a person described in (d) above. ☐

(4) I was born on ....
(Day) (Month) (Year)

(5) For..................years preceding the above election my home (not military) residence in the above state has been

....
(Street and number or rural route, etc.)

The voting precinct or election district for this residence is ....
(Enter if known)

(6) Remarks: ....
....

(7) Mail my ballot to the following address:

....
(Unit (Co., Sq., Trp., Bn., Etc.), Governmental Agency or Office)

....
(Military Base, Station, Camp, Fort, Ship, Airfield, etc.)

....
(Street, Street No., APO, or FPO No.)

....
(City, Postal Zone, and State)

(8) I am NOT requesting a ballot from any other state and am not voting in any other manner in this election, except by absentee process, and have not voted and do not intend to vote in this election at any other address.

(9) ....
(Signature of person requesting ballot)

(10) ....
(Full name, typed or printed, with rank or grade, and service number)

(11) Subscribed and sworn to before me on

....
(Day, month and year)

....
(Signature of official administering oath) *(Typed or printed name of official administering oath.)*

....
(Title or rank, service number and organization of administering official)

INSTRUCTIONS

A. Before filling out this form see your voting officer *in regard to the voting laws of your state and absentee registration and voting procedure.*

B. Type or print all entries except signatures. FILL OUT BOTH SIDES OF CARD.

C. Address card to proper state official. Your voting officer or commanding officer will furnish you with his title and address.

D. Mail card as soon as your state will accept your application.

E. No postage is required for the card.

(c) Upon the other side of the card there shall be printed in red type the following:

FILL OUT BOTH SIDES OF THE CARD

....
(Name)

....
FREE OF U.S. POSTAGE
Including Air Mail

....
(Unit, Gov't Agency, or Office)

....
(Mil. Base, Station, Ship or Office)

....
(Street No., APO, or FPO No.)

....
(City, Postal Zone, State)

OFFICIAL ELECTION BALLOTING MATERIAL — VIA AIR MAIL

To:..
(Title of election official)

....
(County or township)

....
(City or Town, State)"

Amending clause. Section 9. That Section 23-1404 of the Revised Codes

of Montana, 1947, be, and the same is hereby amended to read as follows:

Oath for elector in United States service.

"23-1404. *Oath for Elector in the United States Service. Any oath required for electors in the United States Service to register, request a ballot or vote may be administered and attested, within or without the United States, by any commissioned officer in the active service of the armed forces, or any member of the merchant marine of the United States designated for this purpose by the Secretary of Commerce, or any civilian official empowered by state or federal law to administer oaths. No official seal need be affixed to said oath and neither the elector nor the certifying officer need disclose his whereabouts at the time of taking said oath except to the extent required by the Federal Post Card Application."*

Amending clause.

Section 10. That Section 23-1405 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

County clerk shall classify and enter federal post card applications.

"23-1405. *Classification of Federal Post Card Application. Upon receipt by the county clerk of a Federal Post Card Application properly filled out and signed under oath, the county clerk shall classify such Federal Post Card Application according to the precinct in which the elector resides, and shall arrange the cards in each precinct in alphabetical order. The county clerk shall, upon receipt of any Federal Post Card Application, immediately enter upon the official register of the county in the proper precinct the full information given by said elector. Immediately upon entry upon the official register of the county of the name of the elector in the United States Service the county clerk shall send to him or her by the fastest mail service available a notice that he has been registered and informing him that in order to secure a ballot he must mail at any time within forty-five (45) days next preceding the election another Federal Post Card Application to his county clerk or city clerk or town clerk."*

Notice to elector.

Approved February 5, 1959.

CHAPTER 19

An Act to Change the Name of the State Orphan's Home at Twin Bridges, Montana, to "Montana Children's Center"; Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

State orphan's home changed to Montana children's center.

Section 1. Hereafter, the State Orphan's Home at Twin Bridges, Montana will be known and designated as "Montana Children's Center."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 10, 1959.

CHAPTER 20

An Act to Amend Section 23-1608, Revised Codes of Montana, 1947, Relating to the Arrangement and Adjustment of Voting Machines; to Provide that the Ballot Used On Voting Machines Shall Be Arranged to Conform as Closely as Possible to the Arrangement of Paper Ballots Used in Precincts Which Do Not Have Voting Machines; to Provide for the Placing of the Names of Nonpartisan Judicial Candidates in a Position On Voting Machines Similar to the Position Occupied by Nonpartisan Judicial Candidates Upon Paper Ballots; and Repealing Section 23-2013, Revised Codes of Montana, 1947; Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 23-1608, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Procedure for setting up voting machines.

"23-1608. (764) **City and county clerks to set up machines for use.** (1) The city or county clerks of each city or county in which a voting machine is to be used shall cause the proper ballots to be put upon each machine corresponding with the sample ballots herein provided for, and the machines in every way put in order, set and adjusted ready for use in voting when delivered at the precinct, and for the purpose of so labeling the machines, putting in order, setting and adjusting the same, they may employ one or more competent persons, and they shall cause the machine so labeled, in order and set and adjusted, to be delivered at the voting precinct, together with all necessary furniture and appliances that go with the same in the room where the election is to be held in the precinct, in time for the opening of the polls on election day; provided, however, that a shield of tin painted black made to conform with the shape of the keys or levers on said voting machine, shall be placed over the keys or levers not in use on the face of the ballot of the voting machine; said shields to be plainly marked with the words 'not in use'.

Procedure for assignment of spacing to political parties and non-partisan judicial ballot.

"*(2) In primary elections a separate row or column shall be assigned to each political party and at least one row or column shall separate the rows assigned to the two major political parties as defined in section 23-1107, Revised Codes of Montana, 1947. In this row or column shall be placed the nonpartisan judicial ballot. In general elections the ballot on the voting machines shall be arranged and the names of the candidates for each office rotated to conform as nearly as possible to the requirements for paper ballots set forth in section 23-1107, Revised Codes of Montana, 1947. The names of the candidates of the two major parties as defined in section 23-1107, Revised Codes of Montana, 1947, shall appear in and be rotated between the first two horizontal rows or vertical columns, and the names of the candidates of minor parties and independent candidates shall appear in and be rotated between succeeding rows or columns; provided, however, that the arrangement of the ballot shall be uniform on all machines in the same precinct. The party designation of each candidate shall be printed after or below his name in type as large as the design of the machine will allow.*

Uniform arrangement on all ballots.

Position on ballot for non-partisan judicial ballot.

"*(3) The nonpartisan judicial ballot shall be placed in the first two horizontal or vertical rows or columns in the same position as prescribed for judicial candidates in section 23-1111, Revised Codes of Montana, 1947.*

Judges, duties regarding voting machines.

"*(4)* The judges shall compare the ballots on the machine with the sample ballot, see that they are correct, examine and see that all the counters, if any, in the machine are set at zero, and that the machine is otherwise in perfect order, and they shall not thereafter permit the machine to be operated or moved except by electors in voting, and they shall also see that all necessary arrangements and adjustments are made for voting irregular ballots on the machine, if such machine be so arranged."

Section 2. That a section be added to the Revised Codes of Montana, 1947, to be numbered Section 23-1608A and to read as follows:

Arrangement of ballot on voting machines with horizontal rows.

"23-1608A. The arrangement of the general election ballot on voting machines with horizontal rows shall be, as nearly as possible, in the following form:

INITIATIVES, REFERENDUMS AND CONSTITUTIONAL AMENDMENTS	CONSTITUTIONAL AMENDMENT ________ FOR ________ ________ AGAINST						INITIATIVE NO. 1 ________ FOR ________ ________ AGAINST					
OFFICES	FOR PRESIDENTIAL ELECTORS TO VOTE FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES Vote for one	UNITED STATES SENATOR Vote for one	REPRESENTATIVE IN CONGRESS Vote for one	GOVERNOR Vote for one		STATE SENATOR Vote for one	MEMBER OF THE HOUSE OF REPRESENTATIVES Vote for four				COUNTY COMMISSIONER Vote for one	
CANDIDATES	Democrat JOHN DOE for President ALBERT ORE for Vice-President John Doe, Ella Moe, Jane Roe, Tom Voe	TOM COE Republican	JOHN DOE Democrat	BILL COE Republican	(Same for Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, State Auditor, Railroad and Public Service Commissioners, State Superintendent of Public Instruction Clerk of the Supreme Court, Chief Justice of the Supreme Court, Associate Justice of the Supreme Court and District Judges)	JOE COE Republican	JACK BOE Democrat	PETE COE Democrat	BILL DOE Republican	FRANK HOE Democrat	JOHN DOE Democrat	(Same for all County and Township offices.)
CANDIDATES	Republican FRANK MOE for President HARRY COE for Vice-President Jane Doe, John Moe, Tom Roe, John Voe	JACK MOE Democrat	MIKE ORE Republican	TOM ROE Democrat		TOM DOE Democrat	ALLEN JOE Republican	OLE KOE Republican	JOHN MOE Democrat	EARL ROE Republican	MIKE ROE Republican	
CANDIDATES		JOE ROE Socialist					MIKE FOE Independent	JIM GOE Socialist	BILL LOE Prohibition			
CANDIDATES												

I hereby certify that this is an original page of enrolled House Bill No.22. — Speaker of the House

Arrangement of ballot on voting machines with vertical rows.

"The arrangement of the general election ballot on voting machines with vertical columns shall be, as nearly as possible, in the following form:

OFFICES	CANDIDATES	CANDIDATES	CANDIDATES	CANDIDATES	INITIATIVES, REFERENDUMS AND CONSTITUTIONAL AMENDMENTS	
FOR PRESIDENTIAL ELECTORS TO VOTE FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES Vote for one	Democrat JOHN DOE for President ALBERT ORR for Vice-President John Doe, Bill Moe Jane Roe, Tom Voe	Republican FRANK MOE for President HARRY COE for Vice-President Jane Doe, John Moe Tom Roe, John Voe				CONSTITUTIONAL AMENDMENT
UNITED STATES SENATOR Vote for one	TOM COE Republican	JACK MOE Democrat	JOE HOE Socialist		FOR	
REPRESENTATIVE IN CONGRESS Vote for one	JOE DOE Democrat	MIKE ORE Republican			AGAINST	
GOVERNOR Vote for one	BILL COE Republican	TOM ROE Democrat				
(Same for Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, State Auditor, Railroad and public Service Commissioners, State Superintendent of Public Instruction, Clerk of the Supreme Court, Chief Justice of the Supreme Court, Associate Justice Justice of the Supreme Court and District Judges.)						
STATE SENATOR Vote for one	JOE COE Republican	TOM DOE Democrat				INITIATIVE NO. 1
MEMBER OF THE HOUSE OF REPRESENTATIVES Vote for four	JACK ROE Democrat PETE COE Democrat BILL DOE Republican FRANK HOE Democrat	ALLEN JOE Republican OLE KOE Republican JOE MOE Democrat EARL ROE Republican	MIKE POE Independent JIM OOE Socialist BILL LOE Prohibition		FOR AGAINST	
COUNTY COMMISSIONER Vote for one	JOHN DOE Democrat	MIKE ROE Republican				
(Same for all County and Township offices.)						

I hereby certify that this is an original page of enrolled House Bill No. 22.

....
Speaker of the House

Repealing clause.

Section 3. Section 23-2013, Revised Codes of Montana, 1947, is hereby repealed.

Effective immediately.

Section 4. That this act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1959.

CHAPTER 21

An Act to Amend Section 48-134, Revised Codes of Montana, 1947, Relating to the Premarital Test Certificate Required of Applicants for Marriage Licenses to Provide that Persons Issuing Marriage Licenses Must Demand Satisfactory Evidence of Age from Applicants for Such License; Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 48-134, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Premarital test certificate.

Evidence of age required.

Examination for certificate requires serological test—30-day provision.

"48-134. **Premarital test certificate required of applicants for marriage license.** Before any person, who is or may hereafter be authorized by law to issue marriage licenses, shall issue a marriage license, each applicant therefor shall *exhibit to him a birth certificate or other satisfactory evidence of age, and, if such applicant is a minor, the consent required by section 48-118, Revised Codes of Montana, 1947, and shall also* file with him a certificate from a duly qualified physician, licensed to practice medicine and surgery in any state or United States territory, or any other person authorized by laws of Montana to make such a certificate, which certificate shall state that the applicant has been given such an examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than twenty (20) days prior to the date of issuance of such license, and that the report of the results of such serological test has been exhibited to the applicant and that each party to the proposed marriage contract has examined the report of the serological test of the other party to said proposed contract.

Consent to examination and tests.

"Any person who by law is validly able to obtain a marriage license in the State of Montana is also validly able to give his or her consent to any examinations and tests required by this act. In submitting the blood specimen to the laboratory, the physician, or any other person authorized by the laws of Montana to make such a certificate, shall designate that it is a premarital test.

Certificate to designate premarital test.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 13, 1959.

CHAPTER 22

An Act to Amend Section 10-617, Revised Codes of Montana, 1947, Relating to the Penalty for Improper and Negligent Training of Children; to Provide Clarification; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 10-617, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Penalty for improper and negligent training of children by parent, legal guardian, or any person.

"10-617. **Penalty for improper and negligent training of children.** Any parent or parents, legal guardian, or *any* other person who shall encourage, wilfully cause or contribute to, or through negligence in the care, custody, guidance, education, maintenance, or direction of any child under eighteen years of age, cause or permit such child to violate any law of this state, or the ordinance or ordinances of any city of this state, or to be or become incorrigible, or to knowingly associate with thieves, vicious or immoral persons; or to grow up in idleness or crime, or to knowingly enter a house of prostitution; or to knowingly visit or patronize any place, house, or apartment building where any gambling device is or gambling devices are or shall be operated or run, or where any gambling is done or conducted, or to patronize or visit any saloon or saloons, or dram shop or dram shops, where intoxicating liquors are sold, or to wander about the streets of any town or city in the nighttime, without being on lawful business or occupation, or to habitually wander about or visit any railroads or tracks, or to jump or hook on to any moving train or to enter any car or engines, without lawful authority; to use habitually any vile, obscene, vulgar, profane, or indecent language, or to be guilty of immoral conduct in any public place, or about any schoolhouse or grounds, or keep or permit it in or about any saloon or place where spirituous liquors or intoxicating liquors are sold, or in any gambling house or place where gambling is practiced, or in a house of ill fame or prostitution; or to become addicted to the use of spirituous and intoxicating liquors not for medicinal purposes prescribed by a physician; shall be guilty of a misdemeanor and upon trial and conviction thereof shall be fined in a sum not less than ten dollars ($10.00) and not to exceed one thousand dollars ($1,000.00), or imprisonment in the county jail for a period not exceeding nine (9) months, or by both such fine and imprisonment."

Misdemeanor.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 13, 1959

CHAPTER 23

An Act Authorizing and Empowering the State Board of Land Commissioners of the State of Montana to Sell and Convey a Tract of Land in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW¼NE¼SW¼) and in the Northwest Quarter of the Northeast Quarter of the Southwest Quarter (NW¼ NE¼SW¼) Section 16, Township 28 North, Range 21 West; Comprising Twelve and One Half (12½) Acres, Flathead County, to the Best Interests of the State of Montana; Providing for Platting the Acreage Into Lots and Blocks if Deemed Necessary to the Best Interests of State; Providing for Appraisal of Said Land; Providing for Notice of Sale Pursuant to Section 81-

909 of the Revised Codes of Montana, 1947; Providing Costs of Sale and All Expense Incidental Thereto Shall Be Paid Out of the Proceeds of the Sale and Providing the Net Proceeds of the Sale Shall Go to the Land Sales Petty Cash Fund; Providing for the Effective Date of the Act and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

State board of land commissioners authorized to sell certain land in section 16, township 28 north, range 21, west.

Section 1. The state board of land commissioners of the State of Montana is hereby authorized and empowered to sell to the highest qualified bidder at public auction, pursuant to section 81-909 of the Revised Codes of Montana, 1947, and convey for cash or otherwise the south one-half (½)·of the northwest quarter of the northeast quarter of the southwest quarter (S½NW¼NE¼ SW¼) and the north one-half (½) of the southwest quarter of the northeast quarter of the southwest quarter (N½SW¼NE¼SW¼) and the north one-half (½) of the south one-half (½) of the southwest quarter of the northeast quarter of the southwest quarter (N½S½ SW¼NE¼SW¼) of section sixteen (16), township twenty-eight (28) north, range twenty-one (21) west, Montana Principal Meridian, Flathead County, Montana, containing twelve and one-half (12½) acres more or less.

Appraisal.

Said board shall cause said land to be appraised by the chief field agent or deputy field agent prior to such sale and said land shall not be sold for less than the appraised value.

Approval by state board.

Section 2. The sale herein provided shall be subject to the approval and confirmation of the state board of land commissioners and shall not be deemed completed until after such approval and confirmation. The state board of land commissioners is authorized to reject any and all bids.

May reject bids.

Discretionary power to cause land to be surveyed and subdivided.

Section 3. If the state board of land commissioners shall determine it is for the best interest of the state for the above described land to be surveyed, platted, and laid off into blocks and lots, said board is hereby authorized and empowered to proceed in accordance with the provisions of section 81-904 and 81-905 of the Revised Codes of Montana, 1947.

Procedure for commissioner of state lands—appraised value.

Section 4. When directed by the state board of land commissioners, the commissioner of state lands shall proceed in accordance with the provisions of section 81-910 of the Revised Codes of Montana, 1947, and in addition, shall set forth the appraised value of the land to be sold, together with the statement that said land will not be sold for less than said appraised value.

Expense of sale deposited with state treasurer—credited to land sales petty cash fund.

Section 5. Expense of conducting the sale, publication costs and all other costs necessary and incidental to the sale, shall be deposited with the state treasurer and credited to the land sales petty cash fund.

Repealing clause.

Section 6. All other acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Approved February 13, 1959.

CHAPTER 24

An Act to Amend Section 75-2301, Revised Codes of Montana, 1947, Relating to Fire Drills in All Schools and Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-2301, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Fire drills in public and private schools.

"75-2301 (1071) **Fire drills.** In all schools of the state, either public or private, in which thirty or more children are enrolled it shall be the duty of the teacher or teachers therein employed to instruct the children under their immediate control and charge once each week during the *first month of school and once each month thereafter* in 'fire-drill' as hereinafter provided, except that *additional drills may be held if deemed necessary by the teacher or school administrator.*

Fire alarm given by gong.

A fire-alarm shall be given by striking a gong, and immediately upon such alarm the children shall be required to form immediately a line and leave the building in an orderly manner, through the exit and (or) exits that will most expeditiously clear the building. There shall be no certain day of the week or hour of the day for giving such alarm, and it shall be given without previous warning to the children.

Duty to provide gongs.

Penalty for failure to provide gongs.

It shall be the duty of the trustees or directors, or other persons having control and management of any school building of the class mentioned herein, to provide one or more gongs therefor, with such means of sounding the same as may be approved by the state fire marshal. Each member of any board of trustees or directors, or any other person whose duty it is to install said gongs as herein provided, who fails or refuses so to do, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than fifty dollars.

Penalty for teacher who fails to instruct in fire drills.

Any teacher who fails or refuses to instruct in said fire-drill in the manner provided for in this chapter, after the installation of gongs, as above provided, shall be deemed guilty of a misdemeanor, and shall upon conviction be fined not less than five nor more than twenty-five dollars."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 13, 1959.

CHAPTER 25

An Act to Amend Section 5-506 of the Revised Codes of Montana, 1947, Relating to Limitation On Real Estate Loans by Commercial Banks, to Provide for Extending the Duration of Said Loans to Twenty (20) Years

Under Certain Circumstances; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 5-506 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Banks authorized to make real estate loans secured by first liens not to exceed 50% of appraised value for five years.

"5-506. (6014.31) **Limitation on real estate loans.** Any commercial bank organized under the laws of the State of Montana may make real estate loans, secured by first liens upon improved real estate, including improved farm land and improved business and residential properties and may purchase any obligation so secured when the entire amount of such obligation is sold to the bank. Provided that, the amount of any such loan hereafter made shall not exceed fifty per centum (50%) of the appraised value of the real estate offered as security, and no such loan shall be made for a longer period than five (5) years, except that:

Term may be extended to 20 years in amount not to exceed 60% if 40% of principal amortized within 20 years.

(1) Any such loan may be made in an amount not to exceed sixty per centum (60%) of the appraised value of the real estate offered as security and for a term not longer than *twenty (20)* years if such loan is secured by an amortized mortgage, deed of trust or other such instrument, under the terms of which the installment payments are sufficient to amortize forty per centum (40%) or more of the principal of the loan within a period of not more than *twenty (20) years;* and

No loan in excess of capital stock paid of 60% of deposits.

(2) No such commercial bank shall make such loans in an aggregate sum in excess of the amount of its capital stock paid in and unimpaired plus the amount of its unimpaired surplus or in excess of sixty per centum (60%) of the amount of its time and saving deposits, whichever is the greater.

Loans to 6 months exempt provided no bank liable in excess of 50% of paid in capital.

Loans made to finance the construction of residential or farm buildings and having maturities of not to exceed six (6) months, whether or not secured by a mortgage or a similar lien on real estate upon which the residential or farm building is being constructed, shall not be considered as loans secured by real estate within the meaning of this act, but shall be classed as ordinary commercial loans, provided that no commercial bank shall invest in or be liable on any such loans in an aggregate amount in excess of fifty per centum (50%) of its actually paid in and unimpaired capital.

Loans secured by federal reserve banks or Reconstruction Finance Corporation exempt.

Loans made to establish rural or commercial businesses which are in whole or in part discounted or loaned against as security by a federal reserve bank for any part of which a commitment shall have been made by a federal reserve bank or in which the Reconstruction Finance Corporation cooperated or purchases a participation in, shall not be subject to the restrictions or limitations of this act upon loans secured by real estate, provided any commercial bank in this state shall from time to time have the same authority to make loans upon real estate as may be given by acts of Congress of the United States or the federal reserve system to national banks or bank members of the federal reserve system.

Renewal or extension of present loans exempt.

(3) The foregoing limitations and restrictions shall not prevent the renewal or extension of loans heretofore made and shall not apply to real estate loans which are insured under the provisions of any act of the Congress of the United States; and said limitations and restrictions shall not apply to the making, extension or renewal of any loans which are made under subchapter II of the act of Congress, known as the servicemen's readjustment act of 1944, or any amendment thereof or supplement thereto, as to any part of such loans.

Taking of subsequent liens not prevented.

''These provisions, however, shall not prevent any bank from taking another and immediately subsequent mortgage or deed of trust when it already holds a first mortgage or deed of trust thereon on such real estate, nor from accepting a second lien on real estate to secure the re-payment of a debt previously contracted in good faith; nor shall it prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith, when, in the judgment of the directors of such bank, such subsequent liens are necessary further to secure the payment of any debts and save such bank from loss; provided, the term 'commercial bank' as used in this section, shall mean a bank organized to do the business specified in sections 5-104 to 5-108 of this code, only.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 13, 1959.

CHAPTER 26

An Act Authorizing the Montana Public Service Commission to Issue Licenses for the Operation and Use of VHF Booster Television Systems and VHF Translator Television Systems Within This State, Providing That No Person Shall Operate a VHF Booster System or VHF Translator System Within the Boundaries of This State Except Under and in Accordance with a License Issued Therefor, Requiring that An Application be Made for Said License, Authorizing Said Commission to Adopt Rules and Regulations, Containing a Definition of Terms, Providing a Penalty for the Unlicensed Operation of Such System; and Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

To provide for continuation of television service.

Section 1. It is the purpose of this act to provide for the continuation of television service to all sectors of the State of Montana, particularly in those sparsely settled regions of this state that are unable to support their own television stations, through the authorization of the continued operation of VHF booster and VHF translator television broadcasting systems, and the authorization of the use of such booster and translator television broadcasting systems in those areas of this state where such systems do not now exist.

"VHF booster system and "booster television system" defined.

Section 2. For the purposes of this act, unless the context of any section requires otherwise:

(a) ''VHF booster system'' or "booster television system'' comprises electronic apparatus designed to receive, amplify and retransmit television signals on a single VHF television channel;

"VHF translator system" and "translator television system" defined.

(b) ''VHF translator system'' or ''translator television system'' comprises electronic apparatus designed to receive, amplify and retransmit television signals on a VHF television channel different from that received;

"VHF" defined.

(c) "VHF" or "very high frequency" comprises the radio frequency range between 30,000 kc and 300 mc;

(d) "VHF channel" or "very high frequency channel" comprises the following television channels with the following transmission frequency:

Channel No.	Frequency band (Megacycles)
2	54 - 60
3	60 - 66
4	66 - 72
5	76 - 82
6	82 - 88
7	174 - 180
8	180 - 186
9	186 - 192
10	192 - 198
11	198 - 204
12	204 - 210
13	210 - 216

"Person" defined.

(e) "Person" includes an individual, partnership, association, joint-stock company, trust, or corporation.

"Commission" defined

(f) "Commission" means the Public Service Commission of the State of Montana, as presently constituted.

License required.

Section 3. No person shall operate a VHF booster system or booster television system, or a VHF translator system or translator television system within the boundaries of this state except under and in accordance with a license issued under the authority of the Montana Public Service Commission, upon application therefor.

Procedure for making application for license.

Section 4. Such application shall be directed to said commission and shall contain information concerning the ownership and location of said system, the type of system, the VHF channel or channels being utilized and the area of estimated coverage of said system, together with such other information both technical and non-technical which the commission by its regulations shall require. It must appear from said application that the use or operation of such system will not cause to be transmitted any energy, communication or signal from this state to any other state, territory or possession of the United States, or to any place in any foreign country or to any vessel; or that the effects of such transmission extend beyond the boundaries of this state; or when interference is caused by such use or operation with the transmission of energy, communications, or signals from within this state to any place beyond its borders, or from any place beyond the borders of this state to any place within this state, or with the transmission or reception of such energy, communications, or signals from and/or to places beyond the borders of this state.

Procedure for issuing license for one year—fee.

Section 5. Upon receipt of an application which conforms to the requirements of the preceding section, and all regulations of the commission adopted pursuant thereto, the commission shall forthwith issue to the applicant a license, in a form to be prescribed by the commission, which shall authorize the continued operation of said system for a period of one (1) year thereafter. The fee for such license shall be in the amount of one dollar ($1.00) per year. In the event that such application is for the construction or operation of a VHF booster system or VHF translator system which was not on the effective date of this act in operation within the boundaries of this state, the commission may require additional information with regard to the necessity for and convenience of such system and conduct such investigations and hearings as are deemed necessary to determine whether authorization of said system should be granted.

Authority to adopt rules to carry out provisions.

Section 6. The commission shall have the authority to adopt such rules and regulations, not inconsistent with law as it may deem necessary to carry out the provisions of this act.

Penalty for violation.

Section 7. Any violation of the terms of this act shall constitute a misdemeanor, punishable by a fine of not more than fifty dollars ($50.00).

Effective immediately.

Section 8. This act shall be effective from and after the date of its approval.

Approved February 17, 1959.

CHAPTER 27

An Act Authorizing the State Fish and Game Commission to Issue Special Nonresident Antelope and Special Nonresident Deer Licenses, Fixing the Fees, and Powers and Duties Under Such Licenses, and Providing That All Acts and Parts of Acts in Conflict Herewith Are Hereby Repealed, and Containing an Expiration Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Authorizing state fish and game commission to issue nonresident hunting licenses—complaints—hearings—fees.

Section 1. The State Fish and Game Commission may issue special nonresident antelope licenses and special nonresident deer licenses as provided for in Subsection 15 of Section 26-104, Revised Codes of Montana, 1947, as amended. Such special licenses will be valid only for the area designated in the license, and shall expire annually on the thirtieth (30th) day of April. In areas where ten (10) or more written complaints from persons in the area involved, relating to the issuance of special nonresident deer and antelope permits, have been received by the Fish and Game Department, a hearing at the county seat nearest to the area concerned must be held by representatives of the Fish and Game Department where public protests will be heard. Such written complaints must be received within thirty (30) days after first announcement of seasons by the Fish and Game Commission on or before the first day of August. Notice of such hearing will be published in local newspapers and radio stations in the area concerned at least ten (10) days prior to the date of the hearing. The fee for a special nonresident deer license shall be twenty dollars ($20.00) and the fee for a special nonresident antelope license shall be twenty dollars ($20.00). Not more than one (1) special nonresident deer license, and one (1) special nonresident antelope license shall be issued in any one (1) year to a nonresident. The tagging of game carcasses, as required by law, shall apply to all persons who purchased the special nonresident licenses herein provided. There shall be attached to each special nonresident antelope or deer license a permit which will authorize the holder thereof to ship or transport out of the state one (1) carcass of an animal for which such license was issued.

Tagging of carcasses as required by law.

Permit to ship out of state.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall remain in full force and effect until December 31, 1960.

Effective until December 31, 1960.

Approved February 18, 1959.

CHAPTER 28

An Act to Amend Section 11-1806, Revised Codes of Montana, 1947, Relating to the Presentation and Trial of Charges Brought Against Policemen; Providing for Fifteen (15) Days Written Notice of Charges; for Rules of Evidence Applicable to Hearing; for Judicial Review of Subpoena Power of the Police Commission; for Limitation of Veto and Modification Power of the Mayor; for Judicial Review of All Questions of Fact and Law; for the Types of Municipalities and Cities to Which This Section Shall Apply; Providing for Appeal for All Suspensions of Officers; for Defining the Word "Mayor"; and Repealing All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11-1806, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"11-1806. **Presentation and trial of charges against policemen.** (1) The police commission shall have the jurisdiction, and it shall be its duty to hear, try and decide all charges brought by any person or persons against any member or officer of the police department, including any charge that such member or officer is incompetent, or by age or disease, or otherwise, has become incapacitated to discharge the duties of his office, or has been guilty of neglect of duty, or of misconduct in his office, or of conduct unbecoming a police officer or has been found guilty of any crime, or whose conduct has been such as to bring reproach upon the police force.

Jurisdiction and duty of police commission to hear charges against policemen.

(2) Any charge brought against any member of the

Charge must be in writing.

Copy served on accused.

police force must be in writing in the form required by the police commission and a copy thereof must be served upon the accused officer or member at least fifteen (15) days before the time fixed for the hearing of such charge.

Duty of police commission to hear, try and determine.

Accused has right to appear and be heard—open trial.

(3) It is the duty of the police commission at the time set for hearing a charge against a police officer, to forthwith proceed to hear, try and determine the charge according to the rules of evidence applicable to courts of record in the State of Montana. The accused shall have the right to be present at the trial in person and by counsel, and to be heard, and to give and furnish evidence in his defense. All trials shall be open to the public.

Chairman empowered to issue subpoenas.

(4) The chairman, or acting chairman, of the police commission, shall have power to issue subpoenas, attested in its name, to compel the attendance of witnesses at the hearing and any person duly served with a subpoena is bound to attend in obedience thereto, and the police commission shall have the same authority to enforce obedience to the subpoena, and to punish the disobedience thereof, as is possessed by a judge of the district court in like cases, provided, however, that punishment for disobedience is subject to review by the district court of the proper county.

Duty and power to determine.

(5) The police commission must, after the conclusion of the hearing or trial, decide whether the charge was proven or not proven, and shall have the power, by a decision of a majority of the commission, to discipline, suspend, remove or discharge any officer who shall have been found guilty of the charge filed against him.

When subject to modification or veto by mayor.

(6) Such action of the police commission shall, however, be subject to modification or veto by the mayor, made in writing, giving reasons therefor, which shall become a permanent record of the police commission, provided, however, that where and when the police commission decides the charge not proven the decision is not subject to modification or veto by the mayor nor subject to any review but is final and conclusive.

Where the police commission decides the charge proven, the mayor, within five (5) days from the date of the filing of such findings and decision with the city clerk, may modify or veto such findings and decision.

Duty of mayor to make order—subject to review by district court.

(7) When a charge against a member of the police force is found proven by the board, and is not vetoed by the mayor, the mayor must make an order enforcing the decision of the board, or if modified by the mayor, then such decision as modified, and such decision or order shall be subject to review by the district court of the proper county on all questions of fact and all questions of law.

District court has jurisdiction to review in suit by policeman.

(8) The district court of the proper county shall have jurisdiction to review all questions of fact and all questions of law in a suit brought by any officer or member of the police force, but no suit to review such hearing or trial or for reinstatement to office shall be maintained unless the same is begun within a period of sixty (60) days after the decision of the police commission or order of the mayor has been filed with the city clerk.

No discharge without hearing.

(9) In no case shall any officer or member of the police force, be discharged without a hearing or trial before the police commission, as herein provided, in all cities of the first class, cities of the second class, any and all cities having a duly and regularly appointed, qualified and acting police commission, and all cities and municipalities functioning under the commission form, city manager plan or under a mayor.

Power to suspend with or without pay.

Appeal.

Power of mayor to employ non-members.

(10) The mayor or chief of police, subject to the approval of the mayor, shall have the power in all cases, to suspend a policeman, or any officer, for a period of not exceeding ten (10) days in any one (1) month, *such suspension to be with or without pay as the order of suspension may determine. Any officer suspended, with or without pay, is entitled to appeal such suspension to the police commission and it shall be the duty of the commission to hear, try and decide all charges brought by any person or persons against any member or officer of the department. The mayor of any city shall have the power and authority at any time when he deems it expedient to employ not to exceed two (2) persons at one time for a period not to exceed thirty (30) days to do police duty who are not members of the police department.*

"Mayor" defined. (11) That wherever the word 'mayor' is used in this act, it is intended to include 'city manager,' 'city commissioner' or any other name or designation used to identify or designate the chief executive of any city or municipality."

Repealing clause. Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 18, 1959.

CHAPTER 29

An Act to Amend Section 11-1814, Revised Codes of Montana, 1947, Relating to Qualifications of Policemen; Providing for a Six Months Residence in the City and a Two-Year Residence in the State; Providing That All Acts and Parts of Acts in Conflict Herewith Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That section 11-1814 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Qualifications of policemen. Age. Retirement. "11-1814. (5106) **Qualifications of policemen.** The members of a police department of any city, at the time of their appointment under this act, shall not be less than twenty-one years of age nor more than forty years of age, provided, however, that any city council shall have the power by ordinances duly passed and approved to retire any police officer on half pay, who shall have arrived at the age of sixty-five years, or who shall have served continuously as a police officer for a period of not less than twenty-five years, or who shall have become incapacitated to perform the duties of his office by reason of injury or accident sustained while actually engaged in the performance of his duties as an officer.

Citizenship—residency. "In every case a police officer must be a citizen of the United States, *must have resided in the State of Montana at least two years, and have been a resident of the city or town in which he is appointed at least six (6) months* prior to such appointment, such qualifications also to apply to every officer on the eligible list, at the time he shall be transferred to the active list.

"Every police officer must be able to speak and write understandingly the English language."

Must speak and write English language.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 19, 1959.

CHAPTER 30

An Act to Change the Name and Broaden the Authorization of the Horticultural Branch Experiment Station; Providing that the State Board of Education May Accept Real and Personal Property to Carry Out the Expressed Function of this Act; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the name of the Horticulture Branch Experiment Station at Corvallis, established by legislative act in 1907 (Chapter 146, Laws of 1907, Revised Codes of Montana, 1947, Section 75-710) be, and is hereby changed to the Western Montana Branch Experiment Station of the Agricultural Experiment Station of Montana State College, and that said Western Montana Branch Experiment Station be continued under the general supervision of the Director of the Agricultural Experiment Station.

Name changed to Western Montana Branch Experiment Station of the Agricultural Experiment Station of Montana State College.

Section 2. That the future function of this branch experiment station is hereby declared to conduct studies, investigations, and researches into agricultural problems of particular interest to western Montana. The Director of the Agricultural Experiment Station shall be, and is hereby authorized to employ competent assistants and such other help as may be necessary to carry on the work and to incur other necessary expenses for operation and maintenance.

Function.

Director authorized to employ help.

Section 3. That the Montana State Board of Educa-

Montana State Board of Education authorized to accept donations of land.

tion is hereby authorized to accept, on behalf of the State of Montana, for the use of the Western Montana Branch Experiment Station, donation or donations of land suitable for experimental purposes, providing such land be conveyed to the state in fee simple, and be free of all encumbrances, and title to same shall be acceptable to the Attorney General of Montana.

Montana State Board of Education authorized to accept donations of money, etc.

Section 4. That the Montana State Board of Education is hereby authorized to accept on behalf of the State of Montana for the use of the Western Montana Branch Experiment Station donations of money, implements, scientific equipment, building materials, livestock and supplies in the furtherance of the work of said experiment station.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1959.

CHAPTER 31

An Act to Amend Section 26-222 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 156 of the Montana Session Laws of 1949, Relating to Compensation and Duties of Licensed Agents of the Fish and Game Commission for the Sale of Licenses, to Provide that Said Agents Shall Receive Fifteen Cents for Each License Issued by Him; Containing a Repealing Clause and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 26-222 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 156 of the Montana Session Laws of 1949, be, and the same is hereby amended to read as follows:

License agents receive 15c per license issued.

Procedure.

"26-222. **Compensation—Duties.** License agents, except salaried deputy fish and game wardens (state fish and game wardens), shall receive for all services rendered the sum of *fifteen cents (15¢)* for each license issued. On or before the 10th day of each month each license agent shall submit to the state fish and game warden (director) all duplicates of each class of licenses sold during the preceding month and shall accompany such duplicate licenses with lawful remittance of all moneys received for the sale thereof, less a fee of *fifteen cents (15¢)* for each license sold. Each license agent shall keep his license account open to inspection at all reasonable hours by the state fish and game commission, the state fish and game warden (director), or his deputies (wardens), or the state examiner."

Account open to inspection.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect upon its passage and approval.

Effective immediately.

Approved February 25, 1959.

CHAPTER 32

An Act to Amend Section 23-1213 of the Revised Codes of Montana, 1947, Relating to Voting by Disabled Electors, to Provide that, in Lieu of the Judges Aiding Him, He May Request that a Qualified Elector of His Choice Aid Him; Containing a Repealing Clause and An Effective date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 23-1213 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"23-1213. **Judges may aid disabled elector.** Any elector who declares to the judges of election, or when it appears to the judges of election that he cannot read or write, or that because of blindness or other physical disability he is unable to mark his ballot, but for no other cause, must, upon request, receive the assistance of two of the judges, who shall represent different parties, in the marking thereof, *or said disabled elector may request that any qualified elector whom he designates to the judges, and in whom he has trust and confidence, aid him in the marking of his ballot,* and such judges must

Procedure for aid of disabled electors.

certify on the outside thereof that it was so marked with their assistance, *or the name of the person of whom he requested and received assistance,* and *neither the judges nor, if such is the case, the person who aided him,* must thereafter give information regarding the same. The judges must require such declaration of disability to be made by the elector under oath before them, and they are hereby authorized to administer the same. No elector other than the one who may, because of his inability to read or write, or of his blindness or physical disability, be unable to mark his ballot, must divulge to any one within the polling-place the name of any candidate for whom he intends to vote, or, *other than herein specifically allowed,* ask or receive the assistance of any person within the polling-place in the preparation of his ballot."

Declaration of disability under oath.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect immediately upon its passage and approval.

Approved February 25, 1959.

CHAPTER 33

An Act to Amend Section 3-1709 of the Revised Codes of Montana, 1947, Relating to Reports of Analyses of Commercial Fertilizer, Expenses and How Paid, to Provide that Five Per Cent (5%) of the Fees Collected Thereunder be Placed in the General Fund and Ninety-five Per Cent (95%) be Placed in a Fund to Defray Expenses for Administration and Enforcement of the Montana Fertilizer Law; Providing that Five Per Cent (5%) of the Balance in the Present Fund as of July 1, 1959 be Placed in the General Fund and Ninety-five Per Cent (95%) Thereof to Remain in the Fund for the Continued Administration and Enforcement of the Provisions of the Montana Fertilizer Law; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 3-1709 of the Revised Codes

of Montana, 1947, be, and the same is hereby amended to read as follows:

"3-1709. **Report of analyses—Expenses, how paid.** All such analyses of commercial fertilizer, as required by this act, shall be reported to the commissioner of agriculture of the State of Montana. All expenses for such analyses, together with supplies of all kinds needed for making the same, and also the traveling and other expenses incurred in collecting samples, as required herein, together with all administrative expenses including the expense of publishing reports, shall be provided and paid out of the fund *hereinafter specified,* arising from the license fees. *All license fees* provided for in section 3-1705 *shall be paid to the commissioner of agriculture and by him deposited with the state treasurer. The state treasurer shall place five per cent (5%) of all such fees in the general fund and ninety-five per cent (95%) of all such fees in the fund used for the purposes specified in this section. All claims hereunder shall be verified and* filed with and audited by the commissioner of agriculture and by him presented for allowance by the state board of examiners, in the same manner as all claims contracted for and in behalf of the State of Montana. It shall be the duty of the commissioner of agriculture to enforce this act and for that purpose, he shall make all proper and necessary rules and regulations."

Report of analyses of commercial fertilizer to commissioner of agriculture. Expenses paid from fund maintained by fees.

License fees deposited with state treasurer,

5% in general fund, 95% in expense fund.

Duty of commissioner of agriculture to enforce.

Section 2. *There is now a fund in existence constituted in the manner and for the purposes specified in section 3-1709 of the Revised Codes of Montana, 1947, which fund has been designated as Fund No. 065, commercial fertilizer. Five per cent (5%) of the balance of said Fund No. 065 on July 1, 1959, shall be placed in the general fund by the state treasurer and ninety-five per cent (95%) of said balance as of said date shall remain in said Fund No. 065 to effect the purposes of the act as heretofore specified.*

Designated as Fund No. 065, commercial fertilizer.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 25, 1959.

CHAPTER 34

An Act to Amend Section 26-201, Revised Codes of Montana, 1947, as Amended by Chapter 37, Laws of 1949, and by Chapter 36, Laws of 1951, and by Chapter 121, Laws of 1951, and by Chapter 19, Laws of 1953, Relating to Definitions and Providing that Chukar Partridges be Defined as Upland Game Birds; that Canada Lynx and Black-Footed Ferret be Added to Furbearing Animals; Removing Fox from Furbearing List; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 26-201, Revised Codes of Montana, 1947, as amended by Chapter 37, Laws of 1949, and by Chapter 36, Laws of 1951, and by Chapter 121, Laws of 1951, and by Chapter 19, Laws of 1953, be, and the same is hereby amended to read as follows:

Definitions.

"26-201. (3681) **Definitions.** For the purpose of this act, the following shall be construed, respectively to mean:

Commission.

Commission. That state fish and game commission.

Person.

Person. The plural or singular, male or female, as the case demands, including individual, associations, partnerships, and corporations, unless the context otherwise requires.

Open season.

Open season. The time during which game birds, fish, game and furbearing animals may be lawfully taken.

Closed season.

Closed season. The time during which game birds, fish, game and furbearing animals may not be lawfully taken.

Angling or fishing.

Angling or fishing. The taking of, or attempting to take fish by hook and line or rod in hand.

Upland game birds.

Upland game birds. Sharptail grouse, blue grouse, prairie chicken, sage hen or sage grouse, fool hen, ruffed grouse, commonly called native pheasant or native partridge, quail, Chinese pheasant and Mongolian pheasant, commonly called ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, *and chukar partridge.*

Migratory game birds.

Migratory game birds. Waterfowl; including wild ducks, wild geese, brant, and swans; cranes, including little brown, sandhill and whooping cranes; rails, including coots, gallinules, sora or other rails; shore birds, including avocets, curlew, dowitcher, godwits, knots, upland plover, killdeer, sandpipers, Wilson snipes, or jacksnipes, snipes, stilts, plovers, willets and yellow legs.

Nongame birds.

Nongame birds. All wild birds not defined herein as upland game birds or migratory game birds, shall be deemed non-game birds.

Game animals.

Game animals. Deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, bear and bison or buffalo.

Furbearing animals.

Furbearing animals. Marten or sable, otter, muskrat, fisher, mink, beaver, *Canada lynx and black-footed ferret.*

Predatory animals.

Predatory animals. Coyote, wolf, wolverine, mountain lion, weasel, skunk and civetcat, and bobcat.

Game fish.

Game fish. All species of the family salmonidae (chars, trout, and salmon); all species of the family thymallidae (grayling); all species of the family coregonidae (whitefish); all species of the genus stizostedion (sandpike or sauger and walleyed pike or yellow pike perch); all species of the genus esox (northern pike, pickerel, and Muskellunge); all species of the genus micropeterus (bass)."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1959.

CHAPTER 35

An Act Providing that the State Fish and Game Commission May Issue Wild Turkey Tags to Holders of Valid Class A, Class B-1, Class B-2 Licenses; Providing for a Two Dollar ($2.00) Fee; Providing for the Tagging of Said Turkeys; Providing for Penalties; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Wild turkey tags.

Section 1. The state fish and game commission may issue wild turkey tags to the holder of a valid class A, class B-1, or class B-2 license. Each tag shall authorize the holder to hunt, shoot, capture or possess one (1) wild turkey during such times and such places as the commission shall authorize an open season on wild turkey.

Fee.

The fee for a wild turkey tag shall be two dollars ($2.00). Turkey tags shall be issued either by a drawing system, or in unlimited number according to such rules and regulations as the commission shall prescribe.

Tagging procedure.

Section 2. **Tagging of turkey.** Every person who shall take or kill any turkey shall immediately thereafter attach to the leg of said turkey the proper tag which has been validated by the holder thereof by complying with instructions on said tag.

Penalty for violation.

Misdemeanor.

Section 3. **Penalty for violation.** Any person who shall kill, capture or possess any wild turkey by authority of any turkey tag or permit and shall fail or neglect to attach his tag to the turkey, or shall fail to validate his tag by filling out or punch marking the tag as required and to keep the tag attached while the same is possessed by him, shall be guilty of a misdemeanor and upon conviction shall be punished as provided for in section 26-324 of the Revised Codes of Montana, 1947, as amended.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1959.

CHAPTER 36

An Act to Amend Section 26-104 of the Revised Codes of the State of Montana, 1947, Relating to Powers and Duties of the State Fish and Game Commission; to Provide for the Hunting of Deer, Antelope and Elk by Bow and Arrow Hunters; to Amend Section 26-202.1 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 100 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, Relating to Fish and Game Licenses, Fees, Classification of Licenses, Fees and Powers Under Licenses; to Provide for the Issuance of Licenses to Bow and Arrow Hunters to Hunt and Possess Deer, Antelope and Elk; and to Repeal All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 26-104 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"26-104. (3653) **Powers and duties of commission.** (1) The commission hereby created shall have supervision over all the wild life, fish, game, and nongame birds, and waterfowl, and the game, and furbearing animals of the state, and shall possess all powers necessary to fulfill the duties prescribed by law with respect thereto, and to bring actions in the proper courts of this state for the enforcement of the fish and game laws of the state, and the orders, rules and regulations adopted and promulgated by the commission.

Power and duties of state fish and game commission.

(2) It shall have full power and authority to enforce all the laws of the State of Montana, respecting the protection, preservation and propagation of fish, game, and furbearing animals, game and nongame birds, within the state.

To enforce fish and game laws.

(3) It shall have the exclusive power to expend for the protection, preservation and propagation of fish, game, and furbearing animals, and game and nongame birds, all funds of the State of Montana collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise, all sums collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, or from fines, damages collected for violations of the fish and game laws of this state, from appropriations, or received by the commission from any other sources are hereby appropriated to and placed under control of the Montana fish and game commission.

Exclusive powers.

All sums collected under control of commission.

(4) It shall have power to discharge any appointee or employee of such commission for cause at any time.

Power to discharge for cause.

(5) It shall have full power and authority to dis-

Power to dispose of property.

pose of all property owned by the State of Montana, used for the protection, preservation and propagation of fish, game, and furbearing animals, and game and nongame birds, which shall have been found to be of no further value or use to the state, and shall turn over proceeds arising therefrom to the state treasurer to be by him credited to the state fish and game fund.

Proceeds deposited with state treasurer.

Power to use fish and game funds.

(6) It shall have full power and authority to use so much of the fish and game funds of the state as may be necessary for the construction, maintenance, operation, upkeep, and repair of fish hatcheries, game farms or other property or means and appliances for the protection and propagation of fish, game and furbearing animals, or game or nongame birds in the State of Montana, and it shall have the authority to appropriate moneys from the funds at its disposal for the extermination or eradication of predatory animals that destroy fish, game, or furbearing animals, or game or nongame birds.

Authority to import game birds and animals.

(7) It shall have authority to provide for the importation of game birds and game and furbearing animals, and for the protection, propagation, and distribution of such imported or native birds and animals.

Authority to introduce wild waterfowl food.

(8) It shall have authority to spend so much of the state fish and game funds as may be necessary to introduce and propagate wild waterfowl food and for that purpose may secure expert advice as to what kinds of waterfowl foods are adapted to the climate, soil, and waters of this state.

Duty to construct fish ladders.

(9) It shall be its duty to furnish plans for, and to direct and compel the construction and installation and repair of fish ladders upon dams and other obstructions in streams, which, however, shall be installed and maintained at the expense of the owners of said dam or other obstruction.

Authority to install fish screens and devices.

(10) It shall have the authority to purchase and maintain at the expense of the state fish and game fund suitable fish screens or fish wheels, or other devices, to install in irrigating ditches to prevent fish entering said ditches.

Authority to construct fish ponds.

(11) It shall have authority to locate, lay out, construct and maintain nurseries and rearing ponds where

fry can be planted, propagated and reared and when of suitable sizes, liberated and distributed in the waters of this state, and may expend from the state fish and game funds such sums as may be necessary for this purpose.

Authority to acquire game.

(12) It shall have authority to acquire by gift, purchase, capture, or otherwise, any fish, game, game birds, or animals, for propagation, experimental or scientific purposes.

Authority to acquire property.

(13) It shall have authority to acquire by purchase, condemnation, lease, agreement, gift, or devise, lands or waters suitable for the purposes hereinafter enumerated, and develop, operate and maintain the same for said purposes: (a) For fish hatcheries, nursery ponds, or game farms; (b) Lands or waters suitable for game, bird, fish, or furbearing animal restoration, propagation, or protection; (c) For public hunting, fishing, or trapping areas to provide places where the public may hunt, trap, or fish in accordance with the provisions of law or the regulations of the commission; (d) To extend and consolidate by exchange lands or waters suitable for the above purposes; (e) To capture, propagate, transport, buy, sell, or exchange any species of game, bird, fish, fish eggs, or furbearing animals needed for propagation or stocking purposes, or to exercise control measures of undesirable species.

Authority to enter agreements.

(14) It shall have authority to enter into cooperative agreements with educational institutions and state, federal, or other agencies, to promote wild life research and to train men for wild life management. It shall have authority to enter into cooperative agreements with federal agencies, municipalities, corporations, organized groups of landowners, associations and individuals for the development of game, bird, fish, or furbearing animal management and demonstration projects.

Authority to fix seasons and limits.

(15) It shall have authority to fix seasons and bag limits, open or close, shorten or lengthen seasons on any species of game, bird, fish or furbearing animal as defined by section 26-201 of this code, and to declare areas open to the hunting of deer, *antelope and elk* by bow and arrow permit holders, and during times when only bow and arrows may be used, to hunt deer, *antelope and elk*

in such areas; it is authorized to declare areas open to deer hunting where shotguns only may be used to hunt or kill deer; and it is authorized to declare areas which may be open to special license holders only, and issue special licenses in a limited number when it shall determine, after proper investigation, that such a season is necessary to assure the maintenance of an adequate supply of game animals, or to declare such a special season and issue special licenses whenever game animals are causing damage to private property, or when written complaint of such damage has been filed with the state fish and game commission by the owner of such property, and in determining to whom such licenses shall be issued, it may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system.

Authority over game refuges.

(16) It shall have authority to establish and close to hunting, trapping or fishing, game, bird or fish refuges on public lands and, with the consent of the owner, on private lands; and close streams and lakes, or parts thereof, to hunting, trapping or fishing.

To create districts within the state.

(17) It shall have authority to divide the state into fish and game districts, and to create fish, game, or furbearing animal districts throughout the State of Montana and to declare closed season for hunting, fishing, or trapping in any of said districts, so created, and later to open said districts to hunting, fishing, or trapping.

To close areas.

(18) It shall have authority to declare a closed season on any species of game, fish, or game birds, or furbearing animals threatened with undue depletion, from any cause, and to close any area or district of any stream, public lake, or public water, or portions thereof, to hunting, trapping or fishing, for limited periods of time, when such action is necessary to protect recently stocked area, district, water, spawning water, spawn-taking waters, or spawn-taking stations, or to prevent the undue depletion of fish, game and furbearing animals, and game and nongame birds, and later to open the same upon consent of a majority of the property owners affected.

To establish game refuges.

(19) It shall have authority to establish game refuges for the purpose of providing safe sanctuaries in which

game and furbearing animals or game or nongame birds may breed and replenish. Such refuges shall be established by order of the commission upon the petition and proper showing that such action is, in judgment of the fish and game commission, necessary and in the best interest of the wild life within the area, to be included within such refuge, it being the purpose of this provision to establish small refuges rather than large preserves or rather than to close large areas to hunting or trapping.

To designate havens for migratory birds.

(20) It shall have authority to designate and protect certain areas as resting, feeding and breeding grounds for migratory birds, in which hunting and molestation shall be forbidden; it being the purpose of this provision not to interfere unduly with the hunting of waterfowl, but to provide havens in which they can rest, feed, and breed without molestation.

Procedure for establishing game refuges.

(21) After petition has been duly filed with the secretary of the commission, praying that an area shall be set aside as a game refuge or haven, the said secretary shall immediately publish a notice in a paper of general circulation in the county in which said area is proposed, that a hearing in connection therewith will be held at such place in said county as may be designated on a day not less than fifteen (15) days from the date of the first publication to be specified in said notice, at which time and place all interested parties shall have the right to appear and be heard.

Authority to establish biological department.

(22) It shall have authority to establish and maintain an educational and biological department of their work for the collection and diffusion of such statistics and information as shall be germane to the purpose of this act.

May not issue firearm permits except to officers and wardens.

(23) It shall not have authority to issue permits to anyone to carry firearms within the confines of the State of Montana, except to regularly appointed officers and/or fish and game wardens who are paid by the State of Montana.

Authority to close fishing waters.

(24) It shall have authority to declare certain fishing waters within the State of Montana closed to fishing by all persons, excepting therefrom that class of persons whose ages are twelve (12) years or less; it being the

purpose of this section to provide suitable fishing waters for the exclusive use and enjoyment of juveniles of the age of twelve (12) years or less, at such times and in such areas as the state fish and game commission shall in its discretion deem advisable and consistent with its policies relating to fishing in the State of Montana."

Amending clause.

Section 2. That section 26-202.1 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 100 of the session laws of the thirty-fifth legislative assembly of the State of Montana of 1957, be, and the same is hereby amended to read as follows:

Licenses and fees. Resident game bird and fishing.

"26-202.1. **Licenses—Fees—Classification of Licenses—Fees and powers under licenses.** (1) Class A License. Resident Game Bird and Fishing License. Upon payment of a fee of three dollars ($3.00) the applicant who qualifies therefor shall receive a Class A license which shall entitle the holder thereof to pursue, hunt, shoot and kill game birds and possess dead bodies of game birds, and to fish with hook and line or rod as authorized by regulations of the commission.

Resident big game license.

(2) Class A-1 License. Resident Big Game License. Except as herein provided, any holder of a Class A license, who is twelve (12) years of age or older, may, upon payment of an additional sum of three dollars ($3.00), be entitled to a Class A-1 license, which will entitle the holder to pursue, hunt, shoot and kill game animals and possess the carcass of game animals of the state which are authorized by the commission to be pursued, hunted, shot, killed, taken or possessed.

Qualification for license applicant under 18 years of age.

(a) On and after January 1, 1958, no big game hunting license shall be issued to any resident person under the age of eighteen (18) years unless he presents to the person authorized to issue such license either: (1) evidence that he has held a hunting license issued by this state in a prior year, or (2) a certificate of competency as provided by this section; providing further that all resident persons under fifteen (15) years of age must present a certificate of competency even if he has held a hunting license in prior years.

Instruction in use of firearms.

"The department of fish and game shall provide for a course of instruction in the safe handling of firearms and for the purpose may co-operate with any reputable association or organization having as one of its objectives the promotion of safety in the handling of firearms. The department may designate any person, found by it to be competent, to give instructions in the handling of firearms. A person so appointed shall give such course of instruction and upon the successful completion thereof shall issue to the person instructed, a certificate of competency in the safe handling of firearms.

Bow and arrow license.

(3) Class A-2 License—Special Bow and Arrow License. To Pursue, Hunt, Shoot, Kill, Take and Possess Deer, *Antelope and Elk.* Any holder of a Class A-1 license may, upon payment of an additional sum of two dollars ($2.00) to any agent of the fish and game commission, authorized to issue fishing and hunting licenses, be entitled to a Class A-2 license, which shall authorize the holder thereof to pursue, hunt, shoot and kill deer, *antelope and elk* with bow and arrow and to possess the carcass of deer, *antelope and elk* during a special season, *and in special areas,* as same may be designated by the fish and game commission.

Nonresident fishing license.

(4) Class B License—Nonresident, or a Person Having Less Than Six (6) Months Residence in the State. Any nonresident of the State of Montana or any person who has been a resident citizen for less than six (6) months, upon payment of the sum of ten dollars ($10.00) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a Class B license, which shall entitle the holder thereof to fish with hook and line as authorized by the rules and regulations of the commission.

Nonresident game bird license.

(5) Class B-1 License—Nonresident and Persons Having Less Than Six (6) Months Residence in the State. Game Bird License. Any nonresident of the State of Montana or any person who has been a resident citizen for less than six (6) months, upon payment of the sum of twenty-five dollars ($25.00) to any agent of the fish and game commission authorized to issue fishing and hunting licenses shall be entitled to a Class B-1 license, which shall entitle the holder thereof to pursue, hunt, shoot, kill and possess game birds as authorized by the rules and regulations of the commission.

Nonresident fish and game license.

(6) Class B-2 License—Nonresident or Persons Having Less Than Six (6) Months Residence in the State. Big Game License. Any nonresident of the State of Montana, or any person who has been a resident citizen for less than six (6) months, upon the payment of the sum of one hundred dollars ($100.00) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a Class B-2 license which shall authorize the holder to pursue, hunt, shoot, kill game animals, and to possess the carcasses of same, and to pursue, hunt, shoot, kill and possess game birds, and to fish with hook and line as may hereinafter be authorized by the rules and regulations of the commission.

Temporary nonresident fishing license.

(7) Class B-3 License—Temporary Nonresident or Tourist License. Any nonresident of the State of Montana, upon payment of the sum of three dollars ($3.00) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a temporary nonresident fishing license, which shall authorize the holder to fish with hook and line as authorized by the rules and regulations of the fish and game commission for a period of six (6) days from and after the issuance of such license.

Special nonresident big game license.

(8) Special Licenses. Any applicant who is the holder of a Class A-1 resident big game license or any applicant who is the holder of a Class B-2 nonresident big game license may apply for a special license, which, in the judgment of the fish and game commission is to be issued and shall pay the following fees therefor:

Moose, twenty-five dollars ($25.00).
Mountain Goat, five dollars ($5.00).
Mountain Sheep, fifteen dollars ($15.00).
Bison or Buffalo, twenty-five dollars ($25.00).

Trapper's license.

(9) Class C License—Trapper's License. Any holder of a Class A license, upon making application and paying the sum of ten dollars ($10.00) to the fish and game commission, shall be entitled to a trapper's license, which shall authorize the holder thereof to trap furbearing animals, except beaver, within the State of Montana at such times and in such manner as may be lawful so to do

under the laws of the state and the regulations of the fish and game commission, and at such places as may be designated in said license.

Land owner's trapper's license.

(10) Class C-1 License — Land Owner's Trapper's License. Any owner or tenant, or member of the immediate family of said owner or tenant, upon making application to the fish and game commission, and upon payment of the sum of one dollar ($1.00) shall be entitled to a land owner's trapper's license which shall entitle the holder thereof to trap any furbearing animal, except beaver, on land owned or leased by him, or his immediate family, at such times and in such manner as may be lawful so to do under the laws of the state and the regulations of the fish and game commission and at such places as may be designated in said licenses.

Residents over 70 years of age not required to have fish and game bird license.

(11) Exception. Any person a resident of the State of Montana as defined in section 26-202.3 of the Revised Codes of Montana, 1947, subsection 2, chapter 267, Laws of Montana, 1955, who has attained the age of seventy (70) years shall be entitled to fish and hunt game birds without a Class A license, provided that said persons carry proof of age in lieu of the Class A license described in the foregoing subsection (1), and provided that for persons convicted of any violation of the fish and game laws or regulations of the State of Montana, the privilege conferred by this subsection shall be revoked for a period of not less than six (6) months."

Repealing clause.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1959.

CHAPTER 37

An Act to Amend Section 38-801, Revised Codes of Montana, 1947, Pertaining to the Establishment, Supervision and Control of the Montana State Training School at Boulder, Montana, to Provide that the Name of the Institution shall be changed to "Montana State Training School and Hospital"; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 38-801, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Montana State Training School and Hospital at Boulder established under direction of state board of education.

"38-801. **Montana state training school and hospital established.** That the institution heretofore established at Boulder, in Jefferson county, State of Montana, as a training school *and hospital* for the education, training and detention of subnormal minors and adults and epileptics, shall be known and designated as the 'Montana state training school *and hospital,'* and shall be under the general direction, supervision and control of the state board of education, with a local executive board appointed in the manner, and having the powers and duties granted to and imposed upon such local executive board by the provisions of sections 75-302 and 75-309."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1959.

CHAPTER 38

An Act to Amend Section 11-966 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 34 of the Montana Session Laws of 1955, Pertaining to the Purposes for Which Indebtedness May be Incurred by Cities and Towns, Determining the Extent of Indebtedness for such Purposes; Providing that No Money May be Borrowed on Bonds Until Submitted to and Approved by a Majority Vote of the Taxpayers Affected Thereby and Including in Said Section the Purpose "Sewage Treatment and Disposal Plants"; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-966 of the Revised Codes

of Montana, 1947, as amended by section 1, chapter 34 of the Montana session laws of 1955, be, and the same is hereby amended to read as follows:

Purposes for which indebtedness may be incurred by cities and towns.

"11-966. **Purposes for which indebtedness may be incurred—Limitation—Additional indebtedness for sewer or water system—Procuring water supply and system—Jurisdiction of public works appurtenances.** The city or town council has power: (1) To contract an indebtedness on behalf of a city or town, upon the credit thereof, by borrowing money or issuing bonds for the following purposes, to-wit: Erection of public buildings, construction of sewers, *sewage treatment and disposal plants,* bridges, docks, wharves, breakwaters, piers, jetties, moles, waterworks, reservoirs and reservoir sites, lighting plants, supplying the city or town with water by contract, the purchase of fire apparatus, street and other equipment, the construction or purchase of canals or ditches and water rights for supplying the city or town with water, to acquire, open and/or widen any street and to improve the same by constructing, reconstructing and repairing pavement, gutters, curbs and vehicle parking strips and to pay all or any portion of the cost thereof, and the funding of outstanding warrants and maturing bonds; provided, that the total amount of indebtedness authorized to be contracted in any form, including the then existing indebtedness, must not, at any time, exceed five per centum (5%) of the total value of the taxable property of the city or town, as ascertained by the last assessment for state and county taxes, said words 'value of the taxable property' being used herein in the same sense as in section 6 of article XIII of the Constitution; provided, that no money must be borrowed on bonds issued for the construction, purchase, or securing of a water plant, water system, water supply, *sewage treatment and disposal plant,* or sewerage system, until the proposition has been submitted to the vote of the taxpayers affected thereby of the city or town, and the majority vote cast in favor thereof; and, further provided, that an additional indebtedness shall be incurred, when necessary, to construct a sewerage system or procure a water supply for the said city or town, which shall own or control said water supply and devote the revenue derived therefrom to the payment of the debt.

Limitation on indebtedness.

No money borrowed on bonds until approval by vote of taxpayers.

Additional indebtedness.

Limitation on additional indebtedness.

(2) The additional indebtedness authorized, including all indebtedness theretofore contracted, which is unpaid or outstanding, for the construction of a sewerage system, or for the procurement of a water supply, or for both such purposes, shall not exceed in the aggregate ten per centum (10%) over and above the five per centum (5%) heretofore referred to, of the total valuation of the taxable property of the city or town as ascertained by the last assessment for state and county taxes; and, provided further, that the above limit of five per centum (5%) shall not be extended, unless the question shall have been submitted to a vote of the taxpayers affected thereby, and carried in the affirmative by a vote of the majority of said taxpayers who vote upon such question.

Providing for purchase of private water rights.

(3) It is further provided, that whenever a franchise has been granted to, or a contract made with, any person or persons, corporation or corporations, and such person or persons, corporation or corporations, in pursuance thereof, or otherwise, have established or maintained a system of water supply, or have valuable water rights or a supply of water desired by the city or town for supplying the said city or town with water, the city or town granting such franchise or entering in such contract or desiring such water supply, shall, by the passage of an ordinance, give notice to such person or persons, corporation or corporations, that it desires to purchase the plant and franchise and water supply of such person or persons, corporation or corporations, and it shall have the right to so purchase the said plant or water supply, upon such terms as the parties agree; in case they cannot agree, then the city or town shall proceed to acquire the same under the laws relating to the taking of private property for public use, and any city or town acquiring property under the laws relating to the taking of private property for public use, shall make payment to the owner or owners of the plant or water supply of the value thereof legally determined, within six (6) months from and after final judgment is entered in the condemnation proceedings. For the purpose of providing the city or town with an adequate water supply for municipal and domestic purposes, the city or town council shall procure an appropriate water rights and title to the

Condemnation procedure.

same, and the necessary real and personal property to make said rights and supply available, by purchase, appropriation, location, condemnation, or otherwise.

Jurisdiction of cities and towns over public works.

(4) Cities and towns shall have jurisdiction and control over the territory occupied by their public works, and over and along the line of reservoirs, streams, trenches, pipes, drains, and other appurtenances used in the construction and operation of such works, and also over the source of stream for which water is taken, for the enforcement of its sanitary ordinances, the abatement of nuisances, and the general preservation of the purity of its water supply, with power to enact all ordinances and regulations necessary to carry the powers hereby conferred into effect. For this purpose the city or town shall be authorized to condemn private property in the manner provided by law, and shall have authority to levy a just and equitable tax on all consumers of water for the purpose of defraying the expenses of its procurement."

Authority to condemn private property.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1959.

CHAPTER 39

An Act to Amend Section 75-2901, Revised Codes of Montana, 1947, as Amended by Chapter 53, Laws of 1955, Relating to Compulsory School Attendance; and Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-2901 Revised Codes of Montana, 1947, as amended by chapter 53, Laws of 1955, be, and the same is hereby amended to read as follows:

Compulsory attendance of schools.

"75-2901. **Compulsory attendance—Excuses.** All parents, guardians, and other persons who have care of children, shall instruct them, or cause them to be instructed in reading, spelling, writing, language, English grammar, geography, history and civics, physiology and hygiene, and arithmetic. Every parent, guardian, or other person, having charge of any child *who is seven (7) years of age prior to the beginning of the fall school term and not over sixteen (16) years of age,* shall send such child to a public, private, or parochial school, in which the basic language taught is English, for the time that the school attended is in session, provided, however, that children sixteen (16) years of age or over who have successfully completed the school work of the eighth grade, or whose wages are necessary to the support of the family of such child, may be employed during the time that the public schools are in session upon making the proof and securing the age and schooling certificate provided for in the following section. School attendance shall begin within the first week of the school term, unless the child is excused from such attendance by the superintendent of the public schools, in city and other districts having such superintendent, or by the clerk of the board of trustees in districts not having such superintendent, or by the principal of the private or parochial school, upon satisfactory showing either that the bodily or mental condition of the child does not permit of its attendance at school, or that the child is being instructed at home by a person qualified, in the opinion of the superintendent of schools in city or other districts having such superintendent, to teach the branches named in this section; provided, that the county superintendent may excuse children from attendance upon such schools where, in his judgment the distance makes such attendance an undue hardship. In case the county superintendent, city superintendent, principal, or clerk refuses to excuse a child from attendance at school, an appeal may be taken from such decision to the district court of the county, upon giving a bond, within ten (10) days after such refusal, to the approval of said court, to pay all costs of the appeal; and the decision of the district court in the matter shall be final. Any parent, guardian or other person having the care or custody of a child between the ages of *seven (7)* and sixteen (16) years, who shall fail to comply with the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars ($5.00) nor more than twenty dollars ($20.00)."

Ages.

Excuses.

Appeal from denial of excuse.

Penalty.

Misdemeanor.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 25, 1959.

CHAPTER 40

An Act to Amend Section 129, Chapter 263, Laws of Montana, 1955, Relating to Audible and Visual Signals On Vehicles by Substituting the Word "Red" in Place of the Word "Amber" with Reference to the Color of Alternating Flashing Lights On Front of School Busses; By Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 129, Chapter 263, Laws of Montana, 1955, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 129. **Audible and visual signals on vehicles.** (a) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this act, be equipped with a siren, exhaust whistle or bell capable of giving an audible signal.

Audible signals on emergency vehicles.

(b) Every bus used for the transportation of school children and every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this act, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two (2) alternately flashing *red* lights located at the same level and to the rear two (2) alternately flashing red lights located at the same level, and these lights shall have sufficient intensity to be visible at five hundred (500) feet in normal sunlight.

Flashing red lights on school busses.

(c) A police vehicle when used as an authorized emergency vehicle may but need not be equipped with alternately flashing red lights specified herein. The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right of

Police vehicle does not require flashing red lights.

Duty of other drivers.

way and stop as prescribed in sections 72 and 94 of this act.''

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1959.

CHAPTER 41

An Act to Amend Section 76-117, Revised Codes of Montana, 1947, Replacement Volume Five (5), Relating to the Change of District Name of Soil Conservation Districts by Providing for the Division or Combination or Division and Combination of Soil Conservation Districts; Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 76-117, Revised Codes of Montana, 1947, replacement volume five (5), be, and the same is hereby amended to read as follows:

Procedure for change of name of soil conservation districts.

''76-117. **Change of district name—Division and combination of districts.** (1) Petitions for changing the name of a district organized under this act may be filed with the state soil conservation committee. Any such petition shall be signed by majority of the district supervisors and shall state the present name of the district and the proposed new name. If the committee determines that the proposed new name is not identical with or so similar to that of any other district in the state as to lead to confusion or uncertainty, it shall present a statement of such determination to the secretary of state, who shall issue to the district a certificate, under the seal of the state, evidencing the change of name of the district. Upon the issuance of such certificate, the supervisors of the district shall cause due notice to be given of the change of the name of the district.

Notice.

Procedure for division of soil conservation districts.

(2) *A petition* may be filed with the state committee for the division of any district or the combination of any two or more districts, or for the division of a district and the combination of any divided part thereof with any

other district. *Any or all of such actions may be initiated by the filing of a single petition with the committee.* Any such petition shall be signed by *a majority of the members of each of the governing bodies of the affected districts.* The committee shall prescribe the form for such *petition.* Upon the filing of any such petition, the committee shall *within thirty (30) days give due notice of public hearing upon such petition. All occupiers of lands within the affected districts, and all other interested parties, shall have the right to attend such hearing and to be heard.* After such *hearing,* the committee shall determine whether the proposed division, the combination or division and combination of territory is administratively practicable and feasible. In making such determination the committee shall give due regard to the legislative determinations set forth in section 76-102 and to the considerations enumerated in section 76-105, *to the extent applicable,* relative to determining the practicability and feasibility of creating a district.

Public hearing.

(3) If the committee shall determine that the proposed division or combination, or division and combination, is administratively practicable and feasible, *the committee shall affect such proposed division, combination, or division and combination by filing with the secretary of state a statement certifying the changes made in the boundaries of the affected districts, together with any change in the name of such districts. If such determination is in the negative the committee shall make and record such determination and shall deny the petition. After six (6) months from the denial of such petition, a new petition may be filed involving any of such proposals.*

Statement of changes to Secretary of State.

Denial.

New petition.

(4) Upon the division of a district, the supervisors thereof shall allocate the property, rights and liabilities, including contractual obligations, of the district among the resulting parts of the district, giving due consideration to the proportionate size of each such divided part, the number of land occupiers and operating units and the degree and extent of soil erosion therein, and other relevant factors. A statement of such allocation shall be filed with the state committee within thirty (30) days after the notification of the committee's determination in favor of the division of the district. Upon the failure of the

District supervisors allocate property, etc.

Statement filed with state committee.

When committee shall allocate.

supervisors to make, or to agree upon, such allocation, it shall be made by the committee after such hearings as the committee may deem necessary, and with due regard for the standards set out in this paragraph for making such allocations.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1959.

CHAPTER 42

An Act to Amend Section 40-1302, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 224, Laws of Montana, 1957, Relating to License Fees of Insurance Corporations, Associations, and Societies; Providing for Repeal of All Acts and Parts of Acts in Conflict Herewith; and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 40-1302, Revised Codes of Montana, 1947, as amended by section 1, chapter 224, laws of Montana, 1957, be, and the same is hereby amended to read as follows:

License fees for insurers.

"40-1302. (6112) **License fee.** All insurance corporations, associations, and societies *including all authorized and formerly authorized insurance corporations, associations and societies,* before commencing to do business in the State of Montana, shall be required to secure a license, authorizing them to transact business of insurance corporations, associations, or societies, and shall annually pay to the state auditor, for such license, the following fees:

"For a license to collect in any one year premiums amounting to five thousand dollars or less, one hundred and twenty-five dollars.

"For a license to collect in any one year premiums over the sum of five thousand dollars, the sum of twenty dollars for each and every one thousand dollars to be so collected; provided that for each of the calendar years of 1957, 1958, *1959 and 1960* the license fee shall be the sum of twenty-two dollars and fifty cents for each and every one thousand dollars to be collected; provided, further that, where any insurance corporation, association, or society has fifty per cent of its capital stock invested in Montana securities, such insurance corporation, association, or society shall be allowed to deduct whatever tax it may have already paid from the amount due for such license fee or tax, as herein provided.

Deduction allowed insurer having 50% of capital stock invested in Montana securities.

"With respect to authorized insurers, the annual premium tax provided by this section shall when paid be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees and excises of whatever kind or character, excepting only the fees prescribed by this title, taxes on real and tangible personal property located in this state and taxes payable under section 82-1231, Revised Codes of Montana, 1947, and demands for state, county, city, district, municipal, and school taxes, licenses, fees and excises made because of operations prior to January 1, 1957."

Annual premium tax in lieu of all demands except those set forth.

Section 2. That all acts or parts of acts in conflict herewith except other sections of title 40, Revised Codes of Montana, 1947, be, and the same hereby are repealed.

Repealing clause.

Section 3. The provisions of this act shall apply to taxable years beginning after December 31, 1956.

Applicable to taxable years after December 31, 1956.

Approved February 25, 1959.

CHAPTER 43

An Act to Provide for Retaliation Against the Insurers of Any Other State or Foreign Country on Account of Taxes, Licenses and Other Fees, Fines, Penalties, Deposit Requirements or Other Material Obligations Which Are or Would be Imposed Upon Montana Insurers, Their Agents or Representatives, Which Are In Excess of Such Taxes, Licenses and Other Fees, Fines, Penalties, Deposit Requirements or Other Obligations Imposed Upon Similar Insurers or Agents or Representatives of Such Insurers of Such Other State or Country Under the Statutes of this State; Providing for the Inclusion of Taxes, Licenses or Other Fees Imposed by Any City, County or Other Political Subdivision or Agency of Such Other State or Country to be Within the Purview of This Act; Providing for the Exclusion from the Operation of This Act Personal Income Taxes, Ad Valorem Taxes on Real or Personal Property, Special Purpose Obligations or Assessments Imposed by Another State in Connection with Particular Kinds of Insurance Other Than Property Insurance; Defining Domicile of an Alien Insurer for the Purpose of This Act, Other than Insurers Formed Under the Laws of Canada; Providing for an Effective Date for This Act; and Specifically Repealing Section 40-1428, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Retaliatory obligations imposed on foreign insurers doing business in Montana.

Section 1. When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon Montana insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the commissioner upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in Montana. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on Montana insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this section.

Exempt obligations.

Section 2. This section shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the commissioner in determining the propriety and extent of retaliatory action under this section.

Defining domicile of alien insurer.

Section 3. For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state designated by the insurer in writing filed with the commissioner at time of admission to this state or within six (6) months after the effective date of this act, whichever date is the later, and may be any one of the following states:

(1) That in which the insurer was first authorized to transact insurance;

(2) That in which is located the insurer's principal place of business in the United States;

(3) That in which is held the larger deposit of trusteed assets of the insurer for the protection of its policyholders and creditors in the United States.

If the insurer makes no such designation its domicile shall be deemed to be that state in which is located its principal place of business in the United States.

Repealing clause.

Section 4. Section 40-1428, Revised Codes of Montana, 1947, is hereby specifically repealed, together with all other acts and parts of acts in conflict herewith.

Effective as to all taxable years after December 31, 1958.

Section 5. This act shall be in full force and effect as to all taxable years commencing after December 31, 1958.

Approved February 25, 1959.

CHAPTER 44

An Act to Amend Section 26-332 of the Revised Codes of Montana, 1947, Relating to Restrictions in the Manner of Taking Fish; Containing a Repealing Clause, and Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 26-332 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Restrictions on catching and sale of fish.

Misdemeanor.

Fish and game commission may designate certain waters exempt from restrictions for taking of designated species of non-game fish.

All other fish to be returned uninjured.

"26-332. **Method of catching fish — Use of traps, seines and nets—Restrictions concerning possession and sale of fish.** Every person who takes or catches fish in any of the waters of this state except with hook and line held in hand or line and hook attached to rod or pole held in hand, or who takes or catches fish with hook baited with any poisonous substance or by means of the use of any poisonous substance, including fish berries, or who takes or catches fish by means of the use of fish traps, grab hooks, seines, nets, or other similar means for catching fish, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished as provided for in section 26-324, and the amendments thereto; provided, however, that the Montana fish and game commission shall have the power, authority, and jurisdiction, to designate such waters within the State of Montana, wherein, in the judgment of the members of said commission, traps, seines, or nets, *and rubber or spring propelled spears when employed by sportsmen swimming or submerged in the water,* may be used for the taking of *designated species* of non-game fish and to close such waters so designated at the discretion of the commission, and to permit the taking of black bass in Flathead Lake, the taking of all fish by said means in said waters when so designated to be done under such rules and regulations as said commission may prescribe with reference thereto, and under the supervision of said commission, and all such fish so taken may be possessed and sold in such manner and under such restrictions as said commission may direct, all fish other than those herein designated so taken under said rules and regulations when prescribed by said commission, shall be returned uninjured to the waters from which they were taken."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall take effect and be in full force and effect from and after its passage and approval.

Approved February 26, 1959.

CHAPTER 45

An Act to Amend Section 28, Chapter 242, Laws of 1957, Relating to the Time and Manner of Levying and Collecting Taxes for the Payment of Bonded Indebtedness and Other Claims and Expenses of County Water Districts; Providing That Such Taxes Shall Be a Lien Upon the Lot or Parcel of Property Within the District to the Extent of Its Assessment; and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 28, chapter 242, laws of 1957, be, and the same is hereby amended to read as follows:

Levy and collection of taxes for payment of bonded debt on property benefited in water district.

All other taxes on all property in district.

Such taxes are lien on property to extent of levy.

"Section 28. **Levy and Collection of Tax.** Such taxes for the payment of any such bonded debt shall be levied on the property benefited thereby, as stated by the board of directors in the resolution declaring the necessity therefor, and all taxes for other purposes shall be levied on all property in the territory comprising the district. All such taxes shall be collected at the same time and in the same manner and form as county taxes are collected, and when collected shall be paid to the district for which such taxes were levied and collected. *If such taxes are levied for the payment of a bonded debt for the benefit of certain property within the district, as so stated in the resolution of the board of directors aforesaid, such taxes shall be a lien upon each lot or parcel of said property to the extent of the levy of said taxes upon said lot or parcel; and all taxes for other purposes shall be a lien upon each lot or parcel of land within the entire area comprising* *the district, to the extent of the levy of said taxes upon said lot or parcel;* and said taxes, whether for the payment of a bonded indebtedness or for other purposes, shall be of the same force and effect as other liens for taxes, and their collection shall be enforced by the same means as provided for in the enforcement of liens for state and county taxes. *Such taxes if not paid shall become delinquent at the same time as do county taxes."*

Enforcement.

Delinquent.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 26, 1959.

CHAPTER 46

An Act to Authorize in Certain Instances the Boards of County Commissioners to Levy An Additional Tax of Not to Exceed Six (6) Mills for the County Poor Funds; and Providing for An Effective Date and a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Authorizing boards of county commissioners to levy additional levy not to exceed six mills for county poor fund.

Section 1. Whenever the board of county commissioners of counties coming within the provisions of this act find that the total amount that may be derived from all other sources will be inadequate to provide the revenue necessary to meet the appropriations for expenditures to be set forth in the poor fund section of the county budget, such county commissioners shall have the power and the authority to levy, not to exceed six (6) mills, or so much thereof as may be necessary, to meet such expenditures, as an additional levy for the county poor fund after receiving a certificate authorizing them so to do, issued by the state board of equalization as in this act provided.

Certificate.

Procedure for issuing certificate.

Section 2. On or before the second Monday in July, the boards of county commissioners of counties desiring to avail themselves of the provisions of this act shall submit a certified copy of their county poor fund budget to the state examiner and a like certified copy of such budget to the state department of public welfare. The state examiner shall examine such budget and if it is found by the state examiner that such budget is in compliance with the laws of this state and the rules and regulations of such examiner's office, he shall so certify and transmit such certified copy of the budget, together with his certificate thereon, to the state board of equalization. The state department of public welfare shall examine such budget and if it finds the expenditures and revenues of the previous year are correct and the estimated expenditures and revenues for the current year are approximately correct, then such department shall transmit such copy, together with its certificate, to the state board of equalization.

State Board of Equalization shall certify.

Section 3. The state board of equalization shall, on receipt of the certified copies of such county poor fund budget containing certificates as provided in Section 2 hereof, examine such documents and if such board finds that a levy as authorized in Section 1, or any part thereof, in addition to all other poor fund revenues is necessary, the said board shall certify the amount of the levy to be made by the county commissioners of such county and transmit such certificates to such board of county commissioners who shall thereupon be authorized to make such levy as is authorized.

Effective from July 1, 1959 to June 30, 1961.

Section 4. This act shall be in full force and effect from the first day of July, 1959 to the thirtieth day of June, 1961, and not thereafter.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 26, 1959.

CHAPTER 47

An Act to Amend Section 71-509 of the Revised Codes of Montana, 1947, Relating to Periodic Reconsideration and Changes in Amount of Aid to Dependent Children Assistance, to Provide for an Investigation of the Manner in Which Assistance Payments Are Being Utilized by the Recipient, and Providing for the Appointment by the District Court of the Recipient as Guardian of the Assistance Grant in Behalf of the Child or Children, to Insure Use of Such Grants for the Needs of the Child or Children and Providing for Rendering Accounts by Such Guardian to the Court; Providing for the Termination of Such Guardianship; Providing an Effective Date, and Repealing All Acts and Parts of Acts in Conflict.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 71-509 of the Revised Codes of the State of Montana, 1947, be, and the same is hereby amended to read as follows:

Appointment of guardian for children receiving assistance grants.

"71-509. **Periodic reconsideration and changes in amount of Assistance.** *Appointment of guardian.* All assistance grants made under this part shall be reconsidered by the county department as frequently as may be required by the rules of the state department. After such further investigation as the county department may deem necessary or the state department may require, the amount of assistance may be changed or assistance may be entirely withdrawn if the state or county departments find that the child's circumstances have altered sufficiently to warrant such action, *provided, however, that if the county department, after investigation, finds that any recipient is not utilizing the grant adequately for the needs of the child or children or is dissipating such grant, the county department may request the county attorney to file a petition in the district court for the appointment of such recipient as guardian of the assistance grant in behalf of the child or children. Such petition shall set forth the facts warranting such appointment. Notice of the hearing on such petition shall be served upon the recipient and the county department not less than five (5) days before the date set for such hearing; such petition may be filed with the clerk of the district court and all process issued and served without payment of costs. If upon the hearing of such petition the court is satisfied that it is for the best interests of the child or children, and all parties concerned, that such guardian be appointed, he shall order such appointment, and may require such guardian to render to the court a detailed*

Petition.

Notice of hearing.

Order for appointment and accounting.

itemized account of expenditures of such assistance payments at such times as the court may deem advisable.

"It is the intention of this act that the guardianship herein provided for shall be a special and limited guardianship solely for the purpose of safeguarding the assistance grants made to dependent children. Such guardianship shall terminate upon the termination of such assistance grant, or sooner on order of the court, upon good cause shown."

Limited guardianship.

Termination.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 26, 1959.

CHAPTER 48

An Act to Amend Section 11-2008, Revised Codes of Montana, 1947, Relating to Fire Districts in Unincorporated Territory, Towns and Villages, as Amended by Chapter 75 of the Session Laws of 1953 and by Chapter 75 of the Session Laws of 1957 and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11-2008, Revised Codes of Montana, 1947, Relating to Fire Districts in Unincorporated Territory, Towns and Villages, as amended by section 1 of chapter 75 of the Session Laws of 1953, and by section 1 of chapter 75 of the Session Laws of 1957, be, and the same is hereby amended to read as follows:

Amending clause.

"11-2008. (5148) **Fire protection—Creation of fire districts—Contracts with cities and towns—Dissolution and change of boundaries.** (a) The board of county commissioners is authorized to establish fire districts in any unincorporated territory, town or village upon presentation of a petition in writing signed by the owners of fifty per cent (50%) or more of the area included within the

Procedure for creation of fire districts in unincorporated territory, town or village.

Petition.

proposed district who constitute a majority of the taxpayers who are freeholders of such area, and whose names appear upon the last completed assessment roll; the board shall within ten (10) days after the receipt of such petition, give notice of the hearing thereof at least ten (10) days prior thereto by causing notices of the time and place of such hearing to be posted in at least three (3) of the most public places within the area proposed to be established as a fire district, and published at least once not less than ten (10) or more than twenty (20) days prior to the time of said hearing in a newspaper regularly published in the county in which such proposed district is situated. The board shall proceed to hear the said petition at the time set therefor, or at any time within five (5) days thereafter to which the same shall have been postponed or continued with due notice, and may grant the same unless it shall be established thereat that the petition bears insufficient signatures as above required, or, if originally sufficient, that by reason of written withdrawals thereof it has become insufficient. The board shall render its decision within thirty (30) days after said hearing. At the time of the annual levy of taxes the board of county commissioners may levy a special tax upon all property within such districts for the purpose of buying and maintaining fire protection facilities and apparatus for such districts, or for the purpose of paying to a city or town the consideration provided for in any contract with the council of such city or town for the extension of fire protection service to property within such district, and such tax must be collected as are other taxes.

Notice of hearing. **Publication.** **Hearing.** **Board may grant.** **Board shall render decision within 30 days of hearing.** **Special tax to finance.**

Procedure for dissolution.

"(b) Any fire district organized under this act may be dissolved by the board of county commissioners upon presentation of a petition therefor signed by the owners of fifty per cent (50%) or more of the area included within such fire district and who constitute a majority of the taxpayers who are freeholders of such area, and whose names appear upon the last completed assessment roll. The procedure and requirements outlined in subsection (a) above shall apply to such requests for dissolution of fire districts.

Procedure for division of fire districts petition.

"(c) Change of Boundaries—Division. Fire districts may be divided in the following manner: Whenever a petition in writing shall be made to the county commissioners, signed by the owners of twenty per cent (20%), or more, of an area proposed to be detracted from the original district, and who constitute twenty per cent (20%), or more, of the taxpayers who are freeholders within such proposed detracted area, whose names appear upon the last completed assessment roll, the county commissioners shall, within ten (10) days from the receipt of such petition give notice of the hearing of said petition by causing to be posted, a notice thereof at least ten (10) days prior to the time appointed by them for the consideration of said petition, in at least three (3) of the most public places within the proposed detracted area, and also in at least three (3) of the most public places within the remaining area. The petition for detraction shall describe the boundaries of the proposed detracted area, and also the boundaries of the remaining area. The county commissioners shall, on the day fixed for hearing such petition (or on any legally postponed day), proceed to hear said petition; and said petition shall be granted, and the original district shall thereupon be divided into separate districts, unless at the time of the hearing on such petition protests shall be presented by the owners of fifty per cent (50%), or more, of the area included within the entire original district, and who constitute a majority of the taxpayers who are freeholders of the entire original district, and whose names appear upon the last completed assessment roll. If such required amount of protests are presented, the petition for division shall be disallowed. Upon the division of districts, moneys on hand shall be apportioned between the divided areas according to their respective taxable valuations; all other assets of the original district shall become the property of the remaining area, but a reasonable value shall be placed upon such "other assets" and the remaining area shall become indebted to the detracted area for its proportionate share thereof, based upon taxable valuations. Provided, however, that any detracted area shall remain liable for any existing warrant and bonded indebtedness of the original district.

Notice of hearing.

Petition shall describe boundaries.

Petition may be granted.

Petition disallowed when.

Moneys apportioned.

Other assets.

Liability.

"(d) Change of Boundaries—Annexation. *Adjacent* territory that is not already a part of a fire district may be annexed in the following manner: A petition in writing

Procedure for annexation of adjacent territory petition.

by the owners of fifty per cent (50%), or more, of the *adjacent* area proposed to be annexed, and who constitute a majority of the taxpaying freeholders within such proposed area to be annexed, whose names appear upon the last completed assessment roll, shall be presented to the board of county commissioners. The commissioners shall hold a hearing on such petition, in accordance with the procedure outlined in subsection (c) above; and shall allow the annexation of such proposed *adjacent* territory, unless protests are presented at the hearing by the owners of fifty per cent (50%), or more, of the area included within the original district, and who constitute a majority of the taxpaying freeholders within the original district. Such annexed territory shall become liable for any outstanding warrant and bonded indebtedness of the original district.

Hearing.

Annexation when allowed.

Liability.

"*Adjacent* territory that is already a part of a fire district may withdraw from such fire district and become annexed to another fire district in the following manner: A petition in writing by the owners of fifty per cent (50%), or more, of an area which is part of any organized fire district, and who constitute a majority of the taxpaying freeholders within such area, according to the last completed assessment roll, shall be presented to the county commissioners asking that such area be transferred to, and included in, any other organized fire district to which said area is *adjacent.* Said petition must set forth the change of boundaries to be affected by such proposed transfer of area. The commissioners shall hold a hearing on the petition in accordance with the procedure outlined in subsection (c), above; and the withdrawal and annexation shall be allowed unless protests are presented at the hearing by the owners of fifty per cent (50%), or more, of the area included within *either district* affected, and who constitute a majority of the taxpaying freeholders of *either district,* according to the last completed assessment roll, and provided, that such withdrawals and annexation shall be allowed only upon a showing of more advantageous proximity and communications with the fire-fighting facilities of the other district."

Procedure for withdrawal and annexation to another district.

Petition.

Petition must set forth boundaries

Hearing.

Withdrawal and annexation allowed when.

Showing.

Section 2. If any provision contained in this act shall for any reason be held invalid, such decision shall not invalidate the remaining portions of this act.

Severability.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 26, 1959.

CHAPTER 49

An Act to Amend Initiative Measure No. 54, Adopted by the Vote of the Legal Electors of the State of Montana at the Regular General Election Held in the State of Montana on November 7, 1950, as Amended by Chapter 123, Laws of 1953, and Chapter 45, Laws of 1957, Relating to Section 6 Thereof, by Providing a New Date for Applications for Payment of the Honorarium to be December 31, 1959, Repealing All Acts and Parts of Acts in Conflict Herewith, and Containing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 6 of said Initiative No. 54 be, and the same is hereby amended so as to read as follows:

Amending clause.

"Section 6. All applications for the payment of the honorarium or adjusted compensation here provided for shall be filed with the board of examiners before the thirty-first day of December, *1959*: and the filing of an application with a county clerk and recorder of any county of this state shall be deemed, for the purpose of this section, to have been filed with said board as of the date of filing with such clerk and recorder. Upon receiving any such application such clerk and recorder shall give the applicant a receipt therefor, stating therein the exact time of such filing, and shall immediately endorse the fact and time of filing upon such application, over his signature and seal, and immediately transmit such application to the said board of examiners. Any filing with such board or with any such clerk and recorder within the time limited by this section shall be effective to preserve the rights of the applicant though such application as so filed shall be defective, provided defects therein are later corrected under reasonable rules to be adopted by said board."

Time limit for filing applications December 31, 1959.

Procedure.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect upon its passage and approval.

Approved February 26, 1959.

CHAPTER 50

An Act to Amend Section 23-1808, Revised Codes of Montana, 1947, Relating to the Issuance of Certificates of Election by the Clerk of the Board of County Commissioners; Providing When Said Clerk Shall Make Out and Deliver Certificates of Election to Elected and Appointed Persons (Except Elected District Judges) signed by him and Authenticated with the Seal of the Board of County Commissioners; and Providing that Said Certificates Shall Contain Notice that the Official Bond of the Elected or Appointed Official Must be Filed Within a Prescribed Period of Time.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 23-1808, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Certificates of election issued by clerk of board of county commissioners.

Certificate shall contain notice that bond must be filed within 30 days.

"23-1808. (797). **Certificates issued by the clerk.** The clerk of the board of county commissioners must immediately make out and deliver to such persons (except to the person elected district judge) a certificate of election signed by him and authenticated with the seal of the board of county commissioners, *and said certificate shall contain therein written notice that the official bond of the elected or appointed official must be filed within thirty (30) days after notice of election or appointment, and that failure to file such bond shall cause the office to become vacant."*

Approved February 26, 1959.

CHAPTER 51

An Act to Amend Section 31-125, Revised Codes of Mon-

tana, 1947, as Amended by Section 1, Chapter 79, Laws of Montana, 1957, Relating to the Licensing of Operators and Chauffeurs; Providing that Persons Who Are Engaged in a Gainful Occupation or Business Enterprise or Persons Who Have Resided in Montana for a Period Exceeding Ninety (90) days Must be Licensed to Drive Motor Vehicles Under the Laws of This State; Repealing All Acts or Parts of Acts in Conflict herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-125, Revised Codes of Montana, 1947, as amended by section 1, chapter 79, laws of Montana, 1957, be, and the same is hereby amended to read as follows:

Operators and chauffeurs of motor vehicles must be licensed.

"31-125. **Operators and chauffeurs must be licensed.** (a) No person, except those hereinafter expressly exempted, under section 31-126, Revised Codes of Montana, 1947, as amended by section 1, chapter 95, Laws of 1955, shall drive any motor vehicle upon a highway in this state unless such person has a valid Montana license as an operator or chauffeur under the provisions of this act. No person shall drive a motor vehicle as a chauffeur unless he holds a valid chauffeur's license. No person shall receive a chauffeur's license unless and until he surrenders to the board any operator's license issued to him or an affidavit that he does not possess an operator's license.

(b) Any person holding a valid chauffeur's license hereunder need not procure an operator's license.

Local driving license or permit issued only to holder of valid state license.

(c) Whenever a city or town requires an operator or chauffeur to obtain a local driving license or permit, such a license or permit shall not be issued unless applicant therefor presents a state driver's license valid under the provisions of this act.

Person gainfully employed and resident over 90 days required to have valid state driver's license.

(d) Provided further, that any person who is engaged in a gainful occupation or business enterprise and who has resided in this state for a period exceeding ninety (90) days is considered to be a resident for the purpose of being licensed to drive a motor vehicle and must there-

after be licensed to drive motor vehicles under the laws of this state."

Repealing clause. Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved February 26, 1959.

CHAPTER 52

An Act to Repeal Section 94-3573, Revised Codes of Montana, 1947, which Prohibits the Showing or Exhibition of Any Scenes or Pictures Depicting Burglaries, Train Robberies or Other Acts Which Would Constitute a Felony; Providing for an Effective date.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause. Section 1. That section 94-3573 of the Revised Codes of Montana, 1947, be repealed.

Effective immediately. Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 26, 1959.

CHAPTER 53

An Act to Provide that the Board of County Commissioners May Levy a Special Tax Not to Exceed Two (2) Mills on the Dollar of the Taxable Property of the County for the Purpose of Constructing, Maintaining and Repairing Public Ferries; and Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Special tax not to exceed 2 mills for public ferries. Section 1. The board of county commissioners may levy a special tax not to exceed two (2) mills on the dollar of the taxable property of the county for the purpose of constructing, maintaining and repairing public ferries.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Approved February 26, 1959.

CHAPTER 54

An Act Amending Section 69-1512 of the Revised Codes of Montana of 1947 Relating to Fees for Inspection of Boilers and for Examination of Applicants for Engineer's License; and Amending Section 69-1516 of the Revised Codes of Montana of 1947 Relating to Renewal of Certificates of License to Engineers; and Repealing All Acts and Parts of Acts in Conflict Herewith and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 69-1512 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows: **Amending clause.**

''69-1512. **Fees for inspection or examination.** **Fees for boiler inspection.**

(1) At the time of inspection, the inspector of boilers shall collect fees for the inspection in accordance with the following schedule:

(a) Boilers with pressure under thirty (30) pounds per square inch	*$ 5.00*
(b) Boilers with pressure from thirty (30) pounds to one hundred (100) pounds per square inch	*$ 7.50*
(c) Boilers with pressure from one hundred (100) pounds to three hundred (300) pounds per square inch	*$10.00*
(d) Boilers with pressure over three hundred (300) pounds per square inch	*$15.00*
(e) Miniature boilers with pressure not in excess of sixty-five (65) pounds per square inch	*$ 5.00*

''In case of the failure of the owner, manager or person **Enforcement.**

in charge of any boiler to pay such fee upon the demand of the inspector, said inspector is authorized to seal the firebox of said boiler, and said seal shall not be removed until said fee is paid and the written order of the inspector authorizing its removal is received by said owner or manager. Any person who tampers with or removes such seal without such written order shall be deemed guilty of a misdemeanor and punished as provided by section 69-1507.

Penalty.

Mileage and per diem for special trips.

(2) Whenever, upon request of the owner or operator of any boiler it is necessary for the inspector to make a special trip for the inspection of the boiler, the mileage and per diem allowed by law, in addition to the fees herein prescribed, shall be charged and collected by the inspector at the time such special inspection is made.

Fees for applicants for engineer's license.

(3) Applicants for engineer's license shall pay fees according to the class of license for which application is made, as specified in the following schedule:

(a)	*First class*	*$15.00*
(b)	*Second class*	*$10.00*
(c)	*Third class*	*$ 6.00*
(d)	*Low pressure*	*$ 4.00*
(e)	*Traction*	*$ 6.00*
(f)	*Renewal of license*	*$ 2.00*
(g)	*Replacement of lost certificate*	*$ 1.00*

90 day lapse between examinations.

Display of certificates and licenses.

"In case of the failure of any applicant to pass a successful examination, ninety days must elapse before he can again be examined for license. But the inspector may grant to the applicant a lower grade of license than that applied for upon such examination. All certificates of inspection and engineers' licenses must be displayed in a conspicuous place in the engine room."

Amending clause.

Section 2. That section 69-1516 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Certificates renewed yearly.

"69-1516. **Certificates must be renewed yearly—Disposition of moneys.** All certificates of license to engineers of all classes shall be renewed yearly, except as herein provided. The fee for renewal is *two dollars* in all cases. Any engineer failing to renew his license as herein provided, or within at least thirty days thereafter, must forward the fee for the original license of the same grade, before license can be reissued; provided, however, that any engineer whose license expired while such engineer was in the military or naval service of the United States shall have sixty days from the time such engineer is discharged from such military or naval service within which to renew his license at the renewal fee of one dollar.

On failure to renew within 30 days.

Military service.

"All moneys collected by virtue of the provisions of this *act* must be paid into the state treasury once in each month and credited to the industrial *administration* fund."

Moneys paid into state treasury.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved February 25, 1959.

CHAPTER 55

An Act to Provide for the Repeal of Sections 79-1301, 79-1302, 79-1303, 79-1304, 79-1305, 79-1306, 79-1307 and 79-1308 of the Revised Codes of Montana, 1947, Relating to the Creation, Compensation, Powers, Meetings and Appropriations of the War Planning and Construction Reserve Fund and Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That sections 79-1301, 79-1302, 79-1303, 79-1304, 79-1305, 79-1306, 79-1307 and 79-1308 of the Revised Codes of Montana, 1947, be, and the same are hereby repealed.

Repealing clause.

Approved February 26, 1959.

CHAPTER 56

An Act to Amend Section 94-201-6, of the Revised Codes of Montana of 1947, Relating to the Testimony Adduced Before a Coroner's Jury, by Requiring a Transcript of the Proceedings Therein and Providing for Payment of Claims Therefor; and Repealing All Acts and Parts of Acts in Conflict herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 94-201-6, of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Testimony before coroner's jury.

"94-201-6. (12386) **Testimony in writing and where filed.** The testimony of the witnesses examined before the coroner's jury must be reduced to writing by the coroner, or under his direction, and forthwith filed by him, with the inquisition, in the office of the clerk of the district court of the county. *The coroner must order the inquest proceedings recorded and transcribed by a qualified stenographer and such recording and transcribing expenses shall be paid by the county upon claims duly rendered and certified to by the coroner in the same manner as other claims against the county are paid.*"

Coroner's duty to order transcript.

Expenses—how paid.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 26, 1959.

CHAPTER 57

An Act to Amend Section 94-4106 of the Revised Codes of Montana, 1947, Prohibiting Lewd and Lascivious Acts Upon or With the Body of Children Under the Age of Sixteen (16) Years.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 94-4106, Revised Codes of Montana, 1947, be, and the same is amended to read as follows:

Lewd and lascivious acts by persons over 18 on children under 16.

"94-4106. (11005) **Lewd and lascivious acts upon children.** Any person over the age of eighteen (18) years, who shall wilfully and lewdly commit any lewd and lascivious act, other than the acts constituting other crimes provided in sections 94-4101 to 94-4108, upon or with the body or any part or member thereof, of a child under the age of sixteen (16) years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person, or of such child, shall be guilty of a felony, and shall be imprisoned in the state prison not exceeding *twenty-five (25)* years.

Intent.

Felony.

Sentence not to exceed 25 years.

Approved February 26, 1959.

CHAPTER 58

An Act to Amend Section 80-705, Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 61 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana, 1957, Relating to the Warden of the State Prison, His Appointment, Salary and Removal; Providing for the Approval of Any Such Appointment by the Board of State Prison Commissioners; Providing the Qualification Requirements of the Warden; Increasing the Warden's Salary and Providing That He Shall Receive Full Maintenance While Employed; Providing for the Service of Notice of Charges Against Him at Least Ten (10) Days Prior to the Day Set for Hearing; Providing for a Continuous Term of Employment During Good Behavior, and for Compulsory Retirement at the Age of Sixty-five (65), and for Retention Beyond that Age by the Board of State Prison Commissioners, on a Year to Year Basis; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for the Effective Date of the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 80-705, Revised Codes of Montana, 1947, as amended by section 1 of chapter 61 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana, 1957, be, and the same is hereby amended to read as follows:

Amending clause.

"80-705. (12438) **Warden—Appointment, salary and removal.** A warden of the state prison shall be appointed

Warden—appointment.

by the governor *subject to approval of the board of state prison commissioners,* and such appointment must be transmitted to and approved by the senate. *The warden of the state prison shall be a person trained through education and experience in a managerial capacity in a penal institution.* The salary of the warden *shall be not less than eight thousand four hundred dollars ($8,400.00)* per year, payable in monthly installments.

Qualifications.

Salary.

Residence and provisions.

"The warden shall have a place of residence at the prison for himself and his family, free of charge, and he shall receive all utilities and other necessary items of expense incident to the maintenance thereof. Food and other provisions available at the prison commissary shall be furnished without cost to the warden for consumption and use at said residence, provided that an accounting of such food and provisions so consumed, shall be made annually to the state board of prison commissioners.

Removal.

"The warden shall be subject to removal by the state board of prison commissioners at any time for misfeasance, nonfeasance or malfeasance in office, but before he is so removed formal charges in writing must be preferred and the warden given opportunity to appear and defend himself against any such charges. When charges shall have been preferred, asking the removal of the warden, notice of the time and place of hearing of said charges shall be served upon him at least *ten (10) days* prior to the day set for the hearing; provided, however, that when such charges have been preferred, the state board of prison commissioners shall have the power and authority to suspend the warden until after the determination of the charges preferred against him.

Open hearing.

"The board shall conduct an open hearing to determine whether the warden should be removed. They shall have the power to compel the attendance of witnesses at any such hearing and to examine them under oath and to require the production of books, papers and other evidence at such hearing, and for that purpose to issue subpoenas and cause the same to be served and executed in any part of the state. The warden shall be entitled to be confronted with the witnesses against him and he, or his counsel, shall have an opportunity to cross-examine the same, and to introduce testimony in his own behalf. Within fifteen (15)

days after such hearing the board shall render its decision in writing. If the effect of the decision is to exonerate the warden, he shall be entitled to reimbursement for any loss in salary caused by the charges against him.

Retirement.

"Compulsory retirement age for the warden shall be sixty-five (65). Upon reaching compulsory retirement age, however, the warden in office may be retained beyond that age by the state board of prison commissioners on a year to year basis."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 26, 1959.

CHAPTER 59

An Act to Amend Section 90-140, Revised Codes of Montana, 1947, Relating to the Regulation of Milk Containers, by Including Therein the Half Pint and One-Quarter Pint; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 90-140 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Regulation of milk containers.

"90-140. (4254) **Regulation of milk containers—Complaints.** All milk, cream, and skimmed milk shall be sold only by standard wine measure, and by or in measures, cans, jars, bottles, or other vessels or receptacles, the standard measure or capacity of which shall be the gallon containing two hundred thirty-one (231) cubic inches, the half gallon containing one-half (½) as much as the gallon, and the quart one-fourth (¼) as much as the gallon, and the pint one-half (½) as much as the quart, *and the half pint one-half (½) as much as the pint, and the one-quarter pint one-half (½) as much as the half* pint. Any purchaser of milk, cream or skimmed milk, having reason to believe that any measure, can, jar, bottle, or other vessel or receptacle, in which milk, cream, or skimmed milk is sold and delivered to him, is not of sufficient size or capacity to contain, by standard wine measure, the amount thereof purchased, may apply to the sealer of weights and measures, or his deputies, who shall test the capacity of the same and issue to such purchaser his certificate stating the capacity thereof; and if such capacity, according to such certificate, shall be less than the amount purchased, such purchaser may make complaint to any court having jurisdiction."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 26, 1959.

CHAPTER 60

An Act Authorizing the Establishment of Temporary Roadblocks on the Highways of the State of Montana to Identify Drivers and Apprehend Law Violators; by Defining a Temporary Roadblock and the Purpose for Which It may be Used; by Providing Minimum Requirements in Establishing Temporary Roadblocks and Other Matters Properly Relating Thereto; by Fixing Penalty for Violation of Act; by Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Temporary roadblock defined.

Section 1. **Definition.** For the purpose of this act, a "temporary roadblock" means any structure, device, or means used by the duly elected or appointed law-enforcement officers of this state, and their deputies, for the purpose of controlling all traffic through a point on the highway whereby all vehicles may be slowed or stopped.

Authority to establish.

Section 2. **Authority to establish roadblocks.** The duly elected or appointed law-enforcement officers of this state, and their deputies, are hereby authorized to establish, in their respective jurisdictions, or in other jurisdictions within the state, temporary roadblocks on the highways of this state for the purpose of identifying drivers, and apprehending persons wanted for violation of the laws of this state, or of any other state, or of the United States, who are using the highways of this state.

Section 3. **Minimum requirements.** For the purpose of warning and protecting the traveling public, the minimum requirements to be met by such officers establishing temporary roadblocks, if time and circumstances allow, are: **Minimum requirements.**

1. The temporary roadblock must be established at a point on the highway clearly visible at a distance of not less than one hundred (100) yards, in either direction. **Place.**

2. At the point of the temporary roadblock, a sign shall be placed on the center line of the highway displaying the word "stop" in letters of sufficient size and luminosity to be readable at a distance of not less than fifty (50) yards, in both directions, either in daytime or darkness. **Stop sign.**

3. At the same point of the temporary roadblock, at least one red light, which shall be a flashing or intermittent beam of light, must be placed at the side of the roadway clearly visible to the oncoming traffic, at a distance of not less than one hundred (100) yards. **Flashing red light.**

4. At a distance of not less than two hundred (200) yards from the point of the temporary roadblock, warning signs must be placed at the side of the highway, containing any wording of sufficient size and luminosity, to warn the oncoming traffic that a "police stop" lies ahead. A burning beam light, flare, or a lantern must be placed near such signs for the purpose of attracting the attention of approaching drivers during hours of darkness. A red flag may be used for the same purpose during daylight hours. **Warning sign.** **Burning light.** **Red flag.**

Section 4. **Existing law preserved.** Nothing in this act shall be deemed to limit, or encroach upon the existing authority of Montana law-enforcement officers in the performance of their duties involving traffic control. **Saving clause.**

Section 5. **Penalty.** Any person who shall proceed or travel through a roadblock without subjecting himself to the traffic control so established shall be guilty of a **Penalty.**

Misdemeanor.

misdemeanor, and shall be punished by a fine of not more than five hundred dollars ($500.00), or by imprisonment in the county jail for not more than six (6) months, or by both fine and imprisonment.

Repealing clause.

Section 6. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved February 27, 1959.

CHAPTER 61

An Act to Provide for the Disqualification of District Judges in Criminal Actions or Proceedings; Prescribing the Grounds and Procedure for Disqualification; Providing for Assumption of Jurisdiction by Other District Judges in Event of Disqualification; and Repealing All Other Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

District judge must not sit on filing of affidavit of prejudice.

Section 1. A district judge must not sit or act as such in any criminal action or proceeding when either party makes and files an affidavit, as hereinafter provided, that he has reason to believe, and does believe, he cannot have a fair and impartial hearing or trial before a district judge by reason of the bias and prejudice of such judge. Such affidavit may be made by any party to the criminal action, motion or proceeding, personally, or by his attorney or guardian and shall be filed with the clerk of the district court in which the same may be pending, at least fifteen days prior to the trial of said cause, or any retrial thereof after appeal. Upon the filing of the affidavit, the judge, as to whom said disqualification is averred, shall be without authority to act further in the criminal action, motion or proceeding, but the provisions of this section do not apply to the arrangement of the calendar, the regulation of the order of business, the power of transferring the criminal action or proceeding to some other court, nor to the power of calling in another district judge to sit and act in such criminal action or proceeding, providing that no judge

Without authority.

shall so arrange the calendar as to defeat the purposes of this section. Not more than one judge can be disqualified for bias and prejudice, in said criminal action or proceeding, at the instance of the prosecution and not more than one judge at the instance of the defendant or defendants.

One disqualification allowed.

If there be more than one judge in any judicial district in which said affidavit is made and filed, another judge residing in the judicial district wherein the affidavit is made and filed must be called in to preside in such criminal action, motion or proceeding; if there be but one judge in the judicial district, then a district judge of another judicial district must be called in to preside in such criminal action, motion or proceeding; when another judge has assumed jurisdiction of a criminal action, motion or proceeding, the clerk of the district court in which the same was pending, shall at once notify the parties or their attorneys of record in the same, either personally or by registered mail, of the name of the judge called in.

Calling another judge.

If either party in any matter above mentioned shall file the affidavit as herein provided such party may not complain of any reasonable delay as the result thereof.

Cannot complain of delay.

The provisions of this section shall be inapplicable to any person in any cause involving a direct contempt of court.

Inapplicable in contempt of court.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 27, 1959.

CHAPTER 62

An Act to Amend Section 53-106.2 of the Revised Codes of Montana, 1947, as enacted by the Thirty-fifth Legislative Assembly of the State of Montana of 1957, Relating to Special Motor Vehicle License Plates for Amateur Radio Operators, to Provide for Written Application, Proof of Licensing, and Issuance of Licenses in Pairs; to Amend Section 53-106.3 of the Revised Codes of Montana, 1947, as Enacted by the Legislative

Assembly Aforesaid, Relating to Issuance of Said License, Application and Additional Fee, to Provide for Issuance in Pairs and Increased Fee; to Amend Section 53-106.4 of the Revised Codes of Montana, 1947, as Enacted by the Legislative Assembly Aforesaid, Relating to Rules and Regulations and Limit of Number of Plates, to Provide for Issuance of Plates in Pairs; to Amend Section 53-106.6 of the Revised Codes of Montana, 1947, as Enacted by the Aforesaid Legislative Assembly, Relating to Affixing Said Plates to Cars, Sale or Transfer of Auto and Expiration or Revocation, to Provide that Said Plates Shall Replace the Regular Motor Vehicle License Plate on the Vehicle and Regulations in the Event of Transfer of Auto or Expiration of Amateur License; Providing a Repealing Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 53-106.2 of the Revised Codes of Montana, 1947, as enacted by the thirty-fifth legislative assembly of the State of Montana of 1957, be, and the same is hereby amended to read as follows:

Special license plates for licensed amateur radio operators.

"53-106.2. **Amateur radio operators—Special license plate.** Any motor vehicle owner and resident of this state, who holds an unrevoked and unexpired official amateur radio station license and operator's license, 'conditional' or higher class, issued by the federal communications commission *of the United States,* shall upon *written* application on form prescribed by the registrar of motor vehicles *of the State of Montana, accompanied by proof of ownership of such amateur radio station license and operator's license,* be issued *lettered* license *plates in pairs (two identically lettered plates),* in adition to the regular license plates prescribed by law. *There shall be stamped or impressed upon such special license plates in clear lettering* the official amateur radio call letters of such *owner* as assigned *to such owner* by said federal communications commission, and *said plates so-lettered* shall be renewed concurrently with, *and at the time of, the issuance of the* regular *motor vehicle license* plates."

Radio call letters.

Amending clause.

Section 2. That section 53-106.3 of the Revised Codes of Montana, 1947, as enacted by the legislative assembly aforesaid, be, and the same is hereby amended to read as follows:

Procedure for issuing.

"53-106.3. **Issuance — Application — Additional fee.** The registrar of motor vehicles shall issue *said lettered license plates* to amateur radio operators upon application showing:

(1) Proof that applicant is *the owner and* holder of such amateur radio station license and operator's license;

(2) Compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles, and upon the payment, *or proof of the payment,* of the regular license fee for license plates as provided by law; and,

Fee.

(3) Payment of *a five dollar ($5.00)* additional fee."

Amending clause.

Section 3. That section 53-106.4 of the Revised Codes of Montana, 1947, as enacted by the legislative assembly aforesaid, be, and the same is hereby amended to read as follows:

Rules and regulations.

"53-106.4. **Rules and regulations—Limit of one** *identical pair of plates* **for each operator.** The registrar of motor vehicles shall make such rules and regulations as may be necessary to procure compliance with all the laws of the state regulating the issuance of motor vehicle licenses relating to the use and operation of motor vehicles before issuing the *lettered* license plates. The registrar shall not issue more than one (1) *identical pair of lettered* license *plates* for any licensed amateur radio station in any one licensing period."

Amending clause.

Section 4. That section 53-106.6 of the Revised Codes of Montana, 1947, as enacted by the legislative assembly aforesaid, be, and the same is hereby amended to read as follows:

Installation and removal of plates.

"53-106.6. **Special plates—How affixed to car—Sale or transfer of auto—Revocation or Expiration of radio license.** *The lettered license plates, as herein provided, are to replace the regular license plates on the motor vehicle owned by said amateur radio licensee for such period of time as the amateur radio license is in force under the federal communications commission and the special license issued hereunder is in force, but no longer. Whenever* *such official amateur radio license is revoked or expires for whatever reason, such license plate shall be removed immediately by the owner of the motor vehicle and the regular plates again placed or mounted on the motor vehicle as in other cases.* When the motor vehicle is sold or otherwise transferred, the *regular* number plates *shall be mounted on the motor vehicle; but the owner and holder of valid official amateur radio station and operator's license shall have the right to transfer the lettered plates to another motor vehicle owned by him upon such reasonable conditions as may be prescribed by the registrar.* On the revocation or expiration of the amateur radio station and operator's *licenses,* the *lettered* license *plates* as issued shall be returned *and surrendered* to the registrar of motor vehicles.''

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1959.

CHAPTER 63

An Act to Amend Section 72-150, Revised Codes of Montana, 1947, Relating to Safety Regulatory Power of the Montana Railroad Commission; Providing Authority to Make Health and Safety Rules and Regulations Relating to Sanitation and Shelter; Repealing Conflicting Acts.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 72-150, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Authority of railroad commission to make and enforce rules for installation of safety appliances, sanitation and shelter.

''72-150. **Rules for equipment of cars, trains and engines**; *and health and sanitation.* The railroad commission of the State of Montana shall have full authority, after notice and hearing, to make and enforce rules and regulations providing for the installation on and equipment of trains, cars, or engines, with safety appliances *and providing for sanitation and adequate shelter as it affects the health of all railroad employees, including, but not limited to, trainmen, enginemen, yardmen, maintenance of way employees, highway crossing watchmen, clerical, platform, freight house and express employees;* and shall have authority to inspect the same and enforce regulations with regard thereto, such inspection rules and regulations to be from time to time co-extensive with the requirements of, and in conformity to, the provisions of the acts of Congress, and rules and regulations of the interstate commerce commission as then effective.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed to the extent of any such conflict.

Approved February 27, 1959.

CHAPTER 64

An Act to Amend Section 23-304 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 92 of the Montana Session Laws of 1949, and to Amend Section 23-515 of the Revised Codes of Montana, 1947, Both Relating to Poll Books and Precinct Registers, to Clearly distinguish Between Poll Books and Precinct Registers; to Amend Section 23-519 of the Revised Codes of Montana, 1947, Relating to Compensation of County Clerks On Preparing Precinct Registers to Provide for the Same Clarification; to Amend Section 23-527, of the Revised Codes of Montana, 1947, Relating to Omissions of Names from Poll Books, to Provide for the Same Clarification; to Amend Section 23-704 of the Revised Codes of Montana, 1947, Relating to Furnishing of Blanks by County Commissioners, Providing for Clarification of Terms; to Amend Section 23-908 of the Revised Codes of Montana, 1947, Relating to Inclosing and Sealing Poll Books and Tally Sheets, to Include Precinct Registers; to Amend Section 23-1210 of the Revised Codes of Montana, 1947, Relating to Method of Voting, to Clarify Terms Used; to Amend Section 23-1219 of the Revised Codes of Montana, 1947, Relating to Lists of Voters, to Clarify Terms Used; to Amend Section 23-1311 of the Revised Codes of Montana, 1947, Relating to Duty of Election Judges, to Clarify Terms Used; to Amend Section 23-1313 of the Revised Codes of Montana, 1947, Relating to Envelopes Containing Ballots Providing Clarification of Terms; to Amend Section 23-1320 of the Revised Codes of Montana, 1947, Relating to the Duty of Elector, to Provide for Clarification of Terms; to Amend Section 23-1702, of the Revised Codes of Montana, 1947, Relating to Mode of Canvassing Returns, to Clarify Language Used Therein; to Amend Section 23-1703 of the Revised Codes of Montana, 1947, Relating to Excessive Ballots, to Clarify Language Used Therein; to Amend Section 23-1709 of the Revised Codes of Montana, 1947, Relating to Election Returns by Judges, to Clarify Language Used Therein; to Amend Section 23-1714 of the Revised Codes of Montana, 1947, Relating to Disposition of Returns, and Section 23-1715 of the Revised Codes of Montana, 1947, Relating to Place of Filing Records, to Clarify Language Used Therein; to Amend Section 11-2310 of the Revised Codes of Montana, 1947, Relating to Registration of Electors in Cities and Towns for Bond Elections, to Clarify Language Used Therein; to Amend Section 16-2026 of the Revised Codes of Montana, 1947, Relating to Who Are Entitled to Vote in County Bond Elections, to Provide for Clarification of Language Used Therein; to Amend Section 75-3912 of the Revised Codes of Montana, 1947, Relating to School District Bond Elections as to Electors and Poll Books, to Clarify the Language Used Therein; Clarifications Herein Relate to Proper Reference to the Various Lists, Books and Registers in the Above Sections; and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 23-304 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 92 of the Montana session laws of 1949, be, and the same is hereby amended to read as follows:

Lists of registered electors.

"23-304. **Lists and** *precinct registers.* After the closing of registrations the county clerk of each county shall promptly prepare lists of registered electors of all voting precincts in his county. He shall also prepare the *precinct register* for each precinct in the manner provided by section 23-515, and deliver the same to the judges of election prior to the opening of the polls. In preparing *precinct registers* it shall not be necessary for the county clerk to make separate *precinct registers* containing only the names of electors who are qualified to vote on the question of the incurring of a state debt, the issuance of bonds or debentures by the state or the levying of a state tax. In lieu of preparing such a list of electors qualified to vote on such question, the county clerk shall stamp the word 'TAXPAYER' on the *precinct register* opposite the name of each qualified elector who is a taxpayer and entitled to vote upon any of the questions hereinbefore indicated. No other showing shall be required to establish that such elector is in fact a taxpayer and entitled to vote as such.

Precinct registers.

Taxpayer stamp.

"All of the laws of this state applying to the holding of general biennial state elections, insofar as the same are applicable thereto and not in conflict with any of the provisions of this act, shall apply to, and govern and control such election and the canvassing and return of the votes cast on such question at such election; and abstracts made by the several county clerks shall be returned to the secretary of state in the manner provided by sections 23-1812, 23-1813, for the abstract of votes for state officers."

Saving clause.

Section 2. That section 23-515 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"'23-515. *Precinct register*—**Combining precinct registers in—When not furnished city or town.** During the time intervening between the closing of the official register and the day of the ensuing election, the county clerk shall prepare for each precinct a book to be known as the '*precinct register*' which shall be for the use of the clerks and judges of election in each such precinct. Such books shall be arranged for the listing of the names of the electors in alphabetical divisions, each division to be composed of ruled columns with appropriate headings, under which the information contained upon the registry card of each elector shall be transcribed, excepting the oath of the

Procedure for preparing precinct register.

elector, and the certified copy of the *precinct registers* so prepared shall be delivered to the judges of the election at or prior to the opening of the polls in each precinct. Where the precincts in municipal elections, or in elections in school districts of the first class, include more than one county precinct, the county clerk shall combine into one *precinct register* the names of all electors in the several precinct registers of the precincts of which such municipal or school district precinct is composed. The county clerk shall omit from the list of names of all certified voters so inserted in the *precinct register* herein provided for, the names and registry of all electors which it is the duty of the county clerk to cancel under the provisions of section 23-518, provided that the requirements contained in the provisions of said section shall have been brought to the attention of the county clerk not less than twenty days preceding the election. If the city clerk of any city or town shall, in writing, certify to the county clerk, not less than twenty-five days before the date fixed by law for the holding of any primary nominating election, that no petitions for nomination under the direct primary election law for any office to be filled at the next ensuing annual city election have been filed with such city clerk, not less than thirty days before the date fixed by law for the holding of the primary nominating election, then the county clerk shall not prepare for the city any *precinct register* or *precinct registers* for that year.''

Amending clause.

Section 3. That section 23-519 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Compensation of county clerks.

''23-519. **Compensation of county clerks.** The county clerks shall receive, for the use and benefit of the county, from every city or town, or from every school district of the first class, (to which the *precinct registers* referred to in the last section have been furnished), the sum of three ($0.03) cents for each and every name entered in such *precinct registers,* and in addition he shall receive in like manner the amount of the actual expense incurred in printing and posting the lists of electors, and in publishing the notices required by this law, and any other expense incurred on account of any such municipal or school district election. It shall be the duty of the city or town council, or board of school trustees, to order a warrant

Duties.

drawn for such sum as may be due to the county clerk under the provisions of this section, within thirty (30) days after the presentation of the account to them by said county clerk, provided, however, that in event of the election of candidates at municipal primary elections, as provided for in 11-3113, and no general municipal election is required to be held, the county clerk shall prepare no *precinct registers* for such general municipal election and shall make no charge therefor; provided further, that in elections of school districts of the first class if only as many candidates are nominated as there are vacancies to be filled, the county clerk shall furnish no *precinct registers* and make no charge therefor to such school district.

''It shall be the duty of the city clerk or the clerk of the school district to notify the county clerk in such case as above mentioned, where no *precinct registers* are required, immediately after the facts become known to the city council or the board of trustees of the school district, which makes unnecessary the furnishing of such *precinct registers.*''

Section 4. That section 23-527 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

''23-527. **Omission of name from** *precinct registers*—**remedy.** Any elector whose name is erroneously omitted from any precinct *register* may apply for and secure from the county clerk a certificate of such error, and stating the precinct in which such elector is entitled to vote, and upon the presentation of such certificate to the judges of election in such precinct, the said elector shall be entitled to vote in the same manner as if his name had appeared upon the precinct *register.* Such certificate shall be marked 'voted' by the judges, and shall be returned by them with the *precinct register.*''

Remedy for omission of name.

Section 5. That section 23-704 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Amending clause.

''23-704. **County commissioners to have blanks prepared.** The necessary printed blanks for *precinct registers, pollbooks,* tally *sheets,* lists of electors, tickets, and returns, together with envelopes in which to inclose the

Printed blanks.

returns, must be furnished by the board of county commissioners to the officers of each election precinct at the expense of the county."

Amending clause.

Section 6. That section 23-908 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duty to separate and seal poll-books, precinct registers and tally sheets.

"23-908. **Poll books,** ***precinct register,*** **and tally sheets to be sealed and returned.** (1) Immediately after canvassing the votes in the manner aforesaid, the judges and clerks who complete the count, before they separate or adjourn shall inclose the poll-books in separate covers and securely seal the same. They shall also inclose the tally sheets in separate envelopes and seal the same securely. *They shall also inclose the precinct registers in separate envelopes and seal the same securely.* They shall also envelope all the ballots fastened together, as aforesaid, and seal the same securely; and they shall in writing, with pen and ink, specify the contents, and address each of said packages upon the outside thereof to the county clerk of the county in which the election precinct is situated. These sealed packages of counted ballots shall be marked on the outside, showing what numbers are contained therein, but once sealed they are not to be opened by any one until so ordered by the proper court.

Duty to lock and seal ballot boxes.

(2) When the count is completed, the ballots counted and sealed, and enveloped and marked for identification as aforesaid, shall be packed in the two ballot-boxes, and nothing else shall be put into the boxes. The boxes shall then be locked, and the official seal of the board shall be pasted over the keyhole and over the rim of the lid of the box, so that the box cannot be opened without breaking the seal. Thereafter neither the county clerk nor the canvassers making the abstracts of the votes shall break the said seals upon the ballot-boxes, nor shall anyone break the seals on the boxes or the ballots, except upon the order of the proper court in case of contest, or upon the order of the county board when the boxes are needed for the ensuing election."

Amending clause.

Section 7. That section 23-1210 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Method of voting.

"23-1210. **Method of voting.** On receipt of his ballot the elector must forthwith, without leaving the polling-place and within the guard-rail provided, and alone, retire to one of the places, booths, or compartments, if such are provided, and prepare his ballot. He shall prepare his ballot by marking an 'X' in the square before the name of the person or persons for whom he intends to vote. In case of a ballot containing a constitutional amendment, or other question to be submitted to the vote of the people, by marking an 'X' in the square before the answer of the question or amendment submitted. The elector may write in the blank space or paste over any other name the name of any person for whom he wishes to vote, and vote for such person by marking an 'X' before such name. No elector is at liberty to use or bring into the polling-place any unofficial sample ballot. After preparing his ballot the elector must fold it so the face of the ballot will be concealed and so that the indorsements stamped thereon may be seen, and hand the same to the judges in charge of the ballot-box, who shall announce the name of the elector and the printed or stamped number on the stub of the official ballot so delivered to him, in a loud and distinct tone of voice. If such elector be entitled then and there to vote, and if such printed or stamped number is the same as that entered on the *poll-books* as the number on the stub of the official ballot last delivered to him by the ballot judge, such judge shall receive such ballot, and, after removing the stub therefrom in plain sight of the elector, and without removing any other part of the ballot, or in any way exposing any part of the face thereof below the stub, shall deposit each ballot in the proper ballot-box for the reception of voted ballots, and the stubs in a box for detached ballot stubs. Upon voting, the elector shall forthwith pass outside the guard-rail, unless he be one of the persons authorized to remain within the guard-rail for other purposes than voting."

Amending clause.

Section 8. That section 23-1219 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Poll-book defined.

"23-1219. **List of voters.** Each clerk must keep a list of persons voting, and the name of each person who votes must be entered thereon and numbered in the order voting. Such list is known as the *poll-book.*"

Amending clause.

Section 9. That section 23-1311 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duties of election judges.

"23-1311. **Duty of election judges — poll-lists, numbering ballots and rejected ballots.** The judges of election, at the opening of the polls, shall note on the *poll-books* opposite the numbers corresponding to the numbers of the ballots issued to absent or physically incapacitated voters, as shown by the certificate of the county or city or town clerk, the fact that such ballots were issued to absent or physically incapacitated voters, and shall reserve said numbers for the absent or physically incapacitated voters. The notation may be made by writing the words 'absent or physically incapacitated voters' opposite such numbers.

Rejected, absent or physically incapacitated voter ballots.

"The judges shall not allow any names to be inserted in the *poll-books* on the lines corresponding to said numbers, except the name of the elector entitled to each particular number according to the certificate of the county or city or town clerk, and the number of his ballot. Any so rejected shall be placed together with the voter's application and the absent or physically incapacitated voter's envelope provided for the purpose by the clerk and recorder or city or town clerk, which shall be sealed and endorsed by the words, 'rejected absent or physically incapacitated voter ballots' numbered............................., and shall put thereon the number of the ballots given to absent or physically incapacitated voters according to the county or city or town clerk's certificate. There shall be a separate enclosing envelope for the ballot or ballots of each absent or physically incapacitated voter whose ballot or ballots may have been rejected, and such envelopes shall be placed in an envelope together with the other ballots, and shall not be opened without order of a court of competent jurisdiction."

Amending clause.

Section 10. That section 23-1313 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Procedure for envelopes containing ballots.

"23-1313. **Envelopes containing ballots — deposit in box and rejection of ballot.** At any time between the opening and closing of the polls on such election day, the judges of election of such precinct shall first open the outer envelope only, and compare the signature of such voter to such application, with the signature to such affidavit.

"In case the judge finds the affidavit is sufficient and that the signatures correspond, and that the applicant is then a duly qualified elector of such precinct, and has not voted at such election, they shall open the absent or physically incapacitated voter's envelope, in such manner as not to destroy the affidavit thereon, and take out the ballot or ballots therein contained, and without unfolding the same, or permitting the same to be opened or examined, shall ascertain whether the stub or stubs is or are still attached to the ballot or ballots, and whether the number thereon corresponds to the number in the county or city or town clerk's certificate. If so, they shall endorse the same in like manner that other ballots are endorsed, shall detach the stub as in other cases, and deposit the ballot or ballots in the proper ballot-box or boxes, and make in their election *records* the proper entries to show such elector to have voted. In case such affidavit is found to be insufficient, or that the said signatures do not correspond, or that such applicant is not then a duly qualified elector of such precinct, such vote shall not be allowed, but, without opening the absent or physically incapacitated voter envelope, the judges of such election shall mark across the face thereof 'rejected as defective' or 'rejected as not an elector' as the case may be. The absent or physically incapacitated voter envelope, when such absent vote or vote by a person physically incapacitated from going to the polls is voted, and the absent or physically incapacitated voter envelope with its contents, unopened, when such absent vote or vote by a person physically incapacitated from going to the polls is rejected, shall be deposited in the ballot-box containing the general or party ballots, as the case may be, retained and preserved in the manner by law provided for the retention and preservation of official ballots voted at such election. If, upon opening the absent or physically incapacitated voter's envelope, it be found that the stub of any ballot has been detached, or that the number thereon does not correspond to the number in the county or city or town clerk's certificate of the number issued to such absent or physically incapacitated voter, the ballot shall be rejected, and it shall then and there, and without looking at the face

Record of vote.

Rejected.

thereof, be marked on the back 'rejected on the ground of ....,' filling the blank with the statement of the reason of the rejection; which statement shall be dated and signed by the majority of the judges. The ballot or ballots so rejected, together with the absent or physically incapacitated voter's envelope bearing the application, and the said application, shall be all enclosed in an envelope, which shall be then and there securely sealed, and on such envelope the judges shall write or cause to be written (if not already printed thereon) the words, 'rejected ballot of absent or physically incapacitated voter (writing in the name of the elector). 'The rejected ballot or ballots is or are..............................' The judges shall designate the rejected ballot as 'general ballot,' if it be a ballot for candidates that be rejected. If the rejected ballot be a one put on a question submitted to the vote of the electors, the judges shall designate such ballot as ballot question No. .... in the certificate on the envelope. There shall be a separate enclosing envelope for the ballot or ballots of each absent or physically incapacitated voter whose ballot or ballots may have been rejected and such enclosing envelope shall be placed in the envelope in which the other ballots voted or (are) required to be placed and shall not be opened without an order of a court of competent jurisdiction. The county or city or town clerk shall provide and have delivered to the judge of election suitable envelopes for enclosing rejected absent or physically incapacitated voter's ballots."

Duty to provide suitable envelopes.

Amending clause.

Section 11. That section 23-1320 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duty of elector.

"23-1320. **Duty of elector if present on election day.** In case any elector who shall have taken advantage of the provisions of this act, and marked his ballot as an absent or physically incapacitated voter, as in this act provided, shall not leave his county, or shall return thereto or shall have recovered physical capacity to go to the polls on or before election day, and in time to allow him to go to the polls, to-wit, to the voting place in his precinct, and to be admitted therein before the close of the polls, it shall be his duty so to go to the said voting place and to present himself to the judges of election at said voting place, and if he shall wilfully neglect so to do he shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred ($100.00) dollars or by imprisonment not more than thirty (30) days in the county jail or by both such fine and imprisonment. If such an elector so appears the judges of election shall note in the *precinct register* the fact of his appearance as well as whether or not he voted in person."

Misdemeanor.

Penalty.

Section 12. That section 23-1702 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"23-1702. **Mode of canvassing.** The canvass must commence by a comparison of the *poll-books* from the commencement, and the correction of any mistakes that may be found therein, until they are found to agree. The judges must then take out of the box the ballots unopened except to ascertain whether each ballot is single, and count the same to determine whether the number of ballots corresponds with the number of names on the *poll-books.* If two or more ballots are found so folded together as to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed, and if, on comparing the count with the *poll-books* and further considering the appearance of such ballots, a majority of the judges are of the opinion that the ballots thus folded together were voted by one elector, they must be rejected; otherwise they must be counted."

Mode of canvassing.

Section 13. That section 23-1703 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"23-1703. **Where ballots are in excess of names on** *poll-books.* If the ballots then are found to exceed in number the whole number of names on the *poll-books,* they must be placed in the box (after being purged in the manner above stated), and one of the judges must, publicly, and without looking in the box, draw therefrom singly and destroy unopened so many ballots as are equal to such excess. And the judges must make a record on the *poll-books* of the number of ballots so destroyed."

Excess ballots.

Section 14. That section 23-1709 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

Procedure for election returns.

"23-1709. **Election returns by judges — how made.** The judges must, before they adjourn, inclose in a strong envelope, securely sealed and directed to the county clerk, the *precinct registers,* all certificates of registration received by them, the lists of persons challenged, both of the poll-books, both of the tally-sheets, and the official oaths taken by the judges and clerks of election; and must inclose in a separate package or envelope, securely sealed and directed to the county clerk, all unused ballots with the numbered stubs attached; and must also inclose in a separate package or envelope, securely sealed and directed to the county clerk, all ballots voted, including all voted ballots which, for any reason, were not counted or allowed, and all detached stubs from ballots voted, and endorse on the outside thereof 'ballots voted.' Each of the judges must write his name across the seal of each of said envelopes or packages. The ballot box must be returned to the county clerk."

Amending clause.

Section 15. That section 23-1714 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Disposition of returns prior to canvass.

"23-1714. **Disposition of returns prior to canvass of vote.** The envelopes containing the *precinct registers,* certificates of registration, *poll-books,* tally-sheets, and oaths of election officers must be filed by the county clerk and be kept by him, unopened and unaltered, until the board of county commissioners meet for the purpose of canvassing the returns, when he must produce them before such board, where the same shall be opened."

Amending clause.

Section 16. That section 23-1715 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Clerk to file.

"23-1715. **Clerk to file in his office books, papers, etc.** As soon as the returns are canvassed, the clerk must file in his office the *poll-books, election records* and the papers produced before the board from the package mentioned in the next preceding section."

Amending clause.

Section 17. That section 11-2310 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"11-2310. **Who are entitled to vote—registration of electors.** Only such registered electors of the city or town whose names appear upon the last preceding assessment roll for state and county taxes, as taxpayers upon property within the city or town, shall be entitled to vote upon any proposition of issuing bonds by the city or town. Upon the adoption of the resolution calling for the election the city or town clerk shall notify the county clerk of the date on which the election is to be held and the county clerk must cause to be published in the official newspaper of the city or town, if there be one, and if not in a newspaper circulated generally in the said city or town and published in the county where the said city or town is located, a notice signed by the county clerk stating that registration for such bond election will close at noon on the fifteenth (15th) day prior to the date for holding such election and at that time the registration books shall be closed for such election. Such notice must be published at least five (5) days prior to the date when such election books shall be closed.

Right to vote in city or town bond elections.

Publication of notice of election.

"After the closing of the registration books for such election the county clerk shall promptly prepare lists of the qualified electors of such city or town who are taxpayers upon property therein and whose names appear on the last completed assessment roll for state, county and school district taxes and who are entitled to vote at such election and shall prepare *precinct registers* for such election as provided in section 23-515 and deliver the same to the city or town clerk who shall deliver the same to the judges of election prior to the opening of the polls. It shall not be necessary to publish or post such lists of qualified electors."

Lists of qualified electors.

Section 18. That section 16-2026 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"16-2026. **Who are entitled to vote.** In all county bond elections hereafter held only qualified registered electors residing within the county, who are taxpayers upon property therein and whose names appear upon the last completed assessment roll for state, county and school district taxes, shall have the right to vote. Upon the adoption of the resolution calling for the election, the

Right to vote in county bond elections.

Publication of notice of bond election.

county clerk must cause to be published in the official newspaper of the county a notice, signed by him, stating that registration for such bond election will close at noon on the fifteenth day prior to the date for holding such election and at that time the registration books shall be closed for such election. Such notice must be published at least ten (10) days prior to the day when such registration books will be closed.

Duty of clerk to prepare precinct registers.

"After the closing of the registration books for such election the county clerk shall promptly prepare lists of the registered electors of such voting precinct, who are taxpayers upon property within the county and whose names appear on the last completed assessment roll for state, county and school district taxes, and who are entitled to vote at such election, and shall prepare *precinct registers* for such election, as provided in section 23-515, and deliver the same to the judges of election prior to the opening of the polls. It shall not be necessary to publish or post such list of qualified electors."

Amending clause.

Section 19. That section 75-3912 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Right to vote in school district bond elections.

"75-3912. **Who entitled to vote—list of electors and** *precinct registers.* In all school district bond elections hereafter held only qualified registered electors residing within the district who are taxpayers upon property therein and whose names appear upon the last completed assessment roll for state, county and school district taxes, shall have the right to vote. Upon adoption of the resolution calling for the election, the clerk of the school district shall notify the county clerk of the date on which the election is to be held, and qualified persons shall be allowed to register for such election up till noon of the fifteenth (15th) day prior to the date thereof. At that time the registration books shall be closed for such election, but it shall not be necessary to give any notice of such closing of the registration books.

Duty to prepare lists of voters and precinct registers.

"After the closing of the registration books for such election the county clerk shall promptly prepare lists of the registered electors of such district who are taxpayers upon property therein and whose names appear on the last completed assessment roll for state, county and school district taxes, and who are entitled to vote at such election, and shall prepare *precinct registers* for such election, as provided in section 23-515, and deliver the same to the school district clerk who shall deliver the same to the judge prior to the opening of the polls. In school districts of the first class it shall be the duty of the school district clerk to post such lists in five (5) public and conspicuous places within the district at least ten (10) days prior to the date of election. It shall not be necessary to post such lists in districts of the second and third class. A charge of five cents per name for the use and benefit of the county shall be made by the county clerk for preparing such list and *precinct registers.*"

Duty to post lists.

Section 20. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 27, 1959.

CHAPTER 65

An Act to Amend Section 46-609, Revised Codes of Montana, 1947, Relating to the Fees for Recording Marks and Brands by Increasing Said Fees; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 46-609 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"46-609. (3307) **Fees for recorder of marks and brands.** The general recorder of marks and brands shall charge and collect for recording each mark or brand the sum of *eight dollars ($8.00),* and for re-recording each mark or brand the sum of *four dollars ($4.00),* and for a certified copy of any such record and each duplicate certificate one dollar ($1.00), and all fees so collected shall be paid into the livestock commission fund; providing, however, that not more than ten per cent (10%) of the net re-recording fees after all expenses of re-recording are paid, shall be expended in any one year

Fees for recording marks and brands.

Livestock commission fund.

Limitation on expenditure.

except in case of an emergency declared by the governor."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 27, 1959.

CHAPTER 66

An Act to Amend Section 25-605 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 22 of the Montana Session Laws of 1957, Relating to Salaries of County Officers, to Provide for Two Additional Categories Under the Taxable Valuation Basis for Setting Salaries; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 25-605, Revised Codes of Montana, 1947, as amended by Section 1, Chapter 22, of the Montana Session Laws of 1957, be, and the same is hereby amended to read as follows:

Schedule of salaries for county treasurer, clerk, attorney, sheriff, assessor, superintendent of schools and surveyor.

"25-605. **Salaries of certain county officers.** The salaries of county treasurers, county clerks, county attorneys, sheriffs, county assessors, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries, as provided in section 32-303, Revised Codes of Montana, 1947, shall be based on the population and taxable valuation of the county in accordance with the following schedule:

Population of County	Salary Col. A	Taxable Valuation of County	Salary Col. B
Below 3,000	$1,614	Below $2,000,000	$1,614
3,000 to 3,999	1,682	$2,000,000 to 2,999,999	1,682
4,000 to 4,999	1,752	3,000,000 to 3,999,999	1,752
5,000 to 5,999	1,822	4,000,000 to 4,999,999	1,822
6,000 to 6,999	1,905	5,000,000 to 5,999,999	1,905
7,000 to 7,999	1,948	6,000,000 to 6,999,999	1,948
8,000 to 8,999	2,012	7,000,000 to 7,999,999	2,012
9,000 to 9,999	2,076	8,000,000 to 9,999,999	2,076

10,000 to 12,499	2,196	10,000,000 to 11,999,999	2,196
12,500 to 14,999	2,263	12,000,000 to 13,999,999	2,263
15,000 to 17,499	2,329	14,000,000 to 15,999,999	2,329
17,500 to 19,999	2,395	16,000,000 to 17,999,999	2,395
20,000 to 24,999	2,406	18,000,000 to 19,999,999	2,406
25,000 to 29,999	2,494	20,000,000 to 22,499,999	2,494
30,000 to 39,999	2,572	22,500,000 to 24,999,999	2,572
40,000 to 49,999	2,663	25,000,000 to 29,999,999	2,663
50,000 to 59,999	2,755	30,000,000 to 34,999,999	2,755
60,000 to 69,999	2,849	35,000,000 to 39,999,999	2,849
70,000 to 79,999	2,944	40,000,000 to 44,999,999	2,944
80,000 to 89,999	3,052	45,000,000 to 49,999,999	3,052
90,000 to 99,999	3,114	50,000,000 to 54,999,999	3,114
100,000 and over	3,176	55,000,000 to 59,999,999	3,176
		60,000,000 to 64,999,999	3,263
		65,000,000 to 69,999,999	3,325
		70,000,000 to 74,999,999	*3,419*
		75,000,000 to 79,999,999	*3,513*

"Total salary paid to county treasurers, county clerks, county attorneys, sheriffs, county assessors, county superintendents of schools, and county surveyors in counties where county surveyors receive salaries, as provided in section 32-303, Revised Codes of Montana, 1947, shall be the sum of the salary shown in Column A based on population when added to the salary shown in Column B based on taxable valuation."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 27, 1959.

CHAPTER 67

An Act to Amend Section 46-504, Revised Codes of Montana, 1947, Relating to the Licensing and Inspection of Meat by Eliminating the Words "Or for the Use of Himself and Three (3) Neighbors"; Containing A Repealing Clause and Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 46-504 of the Revised Codes

of Montana, 1947, be, and the same is hereby amended to read as follows:

Person may kill beef for own use without license or inspection.

"46-504. **License or inspection, when not necessary.** Any person who kills beef or veal in good faith for his own use shall not be required to have such meat inspected or stamped, nor shall he be required to procure any license provided for in this act."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1959.

CHAPTER 68

An Act to Amend Section 75-1303, Revised Codes of Montana, 1947, Relating to the Official Staff of the Superintendent of Public Instruction; Providing for the Appointment of Assistants; Providing for the Creation of a Department of Public Instruction; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1303, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Power of superintendent of public instruction to appoint official staff.

"75-1303. **Official staff.** The superintendent of public instruction shall have the power to appoint one deputy, one high school supervisor, one rural school supervisor, one music supervisor, *and such other assistants as may be required to aid in carrying out the duties of his office. Such deputy, supervisors and assistants* shall perform such duties pertaining to the office as the superintendent may direct. Such music supervisor shall be qualified to perform the following duties: Supervise the teaching of music in the graded, rural and high schools of this state, and assist the teachers and faculty in said schools in establishing and carrying out a progressive music program for the benefit of all children in the public schools of the state,

Music supervisor.

and perform all other duties required relating to music education in the public schools. The music supervisor must possess the following qualifications: A graduate in public school music from an accredited college or university, and said supervisor shall have had five (5) years teaching experience in public school music. The music supervisor shall perform only such duties as apply to music supervision.

Qualifications.

"For the purposes of organization of the staff and administration of the duties and services of the superintendent of public instruction, there is hereby created under the office of the superintendent of public instruction a department of public instruction, of which department the superintendent of public instruction shall be the executive and administrative head."

Creation of department of public instruction.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 27, 1959.

CHAPTER 69

An Act Requiring the Labeling of All Containers of Paints, Varnishes, Roof Coatings and Other Protective and Decorative Materials Offered for Sale, Sold, or Shipped in Intrastate Transactions Within the State; Providing for the Inspection and Analysis of Paints, Varnishes, Roof Coatings and Other Protective and Decorative Materials by a Chief Chemist Designated by the Department of Agriculture; Providing for Penalties for Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Labeling of paint products.

Section 1. Every person, firm, or corporation, who manufactures for sale, sells, offers for sale, or ships in intrastate transactions within the state, any paint, mixed paint, paste paint, or compound intended for use as paint, or any varnish, decorative protective coatings or additives for wood, metal, concrete, or roof coatings, but excluding artists' colors, waxes and polishes, shall label the same in a clear and distinct manner. Such label shall recite

Analysis.

a full analysis of the content with a specification of pigment and vehicle. An analysis by percentage of the pigment content and the analysis by percentage of the vehicle content. The label shall further recite the name and address of the manufacturer or distributor of the product. The analysis and composition shall be subject to inspection by the chief chemist of a laboratory designated by the Department of Agriculture of the State of Montana.

Inspection.

Penalty.

Section 2. Any person, firm, or corporation who fails to comply with all of the provisions of this act shall be subject to prosecution and upon conviction, to a fine of not less than twenty-five ($25.00) dollars and not more than one hundred ($100.00) dollars and all costs, including cost of analysis to the amount of twenty-five ($25.00) dollars or by imprisonment in a county jail not to exceed sixty (60) days.

Prima facie evidence.

Section 3. The possession, either constructive or actual by any person, firm, or corporation dealing in said articles or substances hereinabove described and not properly labeled as provided by section 1 of this act, shall be considered prima facie evidence that the same is kept for sale in violation of the provisions of this act and punishable under it.

Enforcement department of agriculture.

Section 4. The Department of Agriculture of the State of Montana shall be responsible for the enforcement of this act and shall appoint any assistants or agents deemed necessary for the proper enforcement of all the provisions of this act. These appointed agents or assistants shall be duly authorized for the purpose, and shall have access to all places of business, factories, stores and buildings used for the manufacture or sale of paints or other products described in section 1 of this act. They shall have the power and authority to purchase and open any package, can, jar, tub or other receptacle containing any of the articles recited in section 1 of this act.

Duties.

Section 5. The Department of Agriculture of the State of Montana shall designate the laboratory where analysis of the products recited in section 1 of this act shall be made. When analysis of the products mentioned in section 1 of this act are found to be in violation of this act, the chief chemist of the laboratory appointed and designated by the Department of Agriculture shall report the facts of his tests to the Department of Agriculture. Every certificate duly signed and acknowledged by the chief chemist of the laboratory relating to the analysis of any of the products mentioned in section 1 of this act shall be presumptive evidence of the facts therein stated.

Presumptive evidence.

Section 6. It shall be the duty of the county attorney of the county of the State of Montana wherein the violation of this act occurred, to prosecute every person, firm, or corporation violating any of the provisions of this act when the evidence thereof has been presented by the chief chemist of the laboratory making the analysis as provided for in this act.

Duty of county attorney.

Approved February 27, 1959.

CHAPTER 70

An Act to Amend Section 75-4230 Revised Codes of Montana, 1947, Relating to the Attendance of High School Pupils Outside of County of Residence and Providing for an Increase in Tuition Rates for Children Attending High Schools in Counties Other Than the Counties of the Childrens' Residence and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 75-4230 Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"75-4230. (1262.81) **Attendance outside of county of pupil's residence — transfer of apportionment.** The attendance of any eligible high school pupil at an accredited high school outside of the county of his residence, either within or without the state, must be authorized by the county superintendent of schools of the county of his residence when a pupil lives closer to a high school of an adjoining county than to any high school located in the county of his residence, or when due to road or geographical conditions it is impractical to attend the high school of his own district, and when proper application has been

Providing for attendance of high school outside county of residence.

made to the county superintendent of schools by the parent or guardian of the pupil for whom such transfer is desired; provided, that the county superintendent of schools may at his discretion require a pupil obtaining such transfer to attend the high school nearest his residence.

"In all other cases the county superintendent of schools may authorize at his discretion any eligible pupil to attend a high school in a county outside of his residence.

"No payment shall be made for attendance in another state except where such attendance is in a high school in a county adjacent to the county of the student's residence.

Application. "Application for permission to attend a high school outside the county of residence shall be made to the county superintendent of the county of the pupils' residence before July 1, previous to the year of attendance, except in those cases where circumstances make this impossible. **Procedure.** The county superintendent must then approve or disapprove these applications and notify the individuals concerned, and the high school to be attended, and the county superintendent of the county where the pupil will attend school. At the end of the school year attended and before July 15, the clerk of the school district operating the high school attended shall send to his county superintendent the name of all pupils from outside of the county attending his school, together with such pupils' home addresses and the number of days such pupils actually attended his high school, who in turn will transmit this information to the county superintendent of the pupils' residence.

Tuition. "Tuition for the year attended is hereby made an obligation of the county of residence for the following year. Before August 1 each year, the county superintendent of the county of residence of the pupils concerned shall make out a high school transfer budget. **Transfer budget.** The total of such transfer budget shall be determined by multiplying the number of pupils attending high school outside of his county by *two hundred fifty dollars ($250.00)* in the case of attendance at a high school with an average number belonging up to one hundred (100) pupils; *two hundred twenty-five dollars ($225.00)* in case of attendance at a high school with an average number belonging from one hundred one (101) to four hundred (400); and *two hundred dollars ($200.00)* in case of attendance at a high school with an average number belonging over four hundred (400); provided further, that the pupil has attended at least forty (40) days.

"The total of the transfer budget shall be subtracted from the receipts from the county ten (10) mill levy for high schools before the remainder of such receipts is distributed to the high schools of the county. Such total of the transfer budget shall be held in a transfer fund separate and apart from other school funds and shall be allocated by the county treasurer upon instructions from the county superintendent.

Transfer fund.

Remittance.

"In December of each year the county superintendent of the county of the pupil's residence shall notify his county treasurer of the amount to be transferred to each high school educating the pupil concerned, and the said county treasurer shall forthwith remit said amounts to the county treasurer of the county in which such high schools are located. The county treasurer receiving such transfers of money shall place the amount to the credit of the general fund of the high school concerned. Receipts by any high school for tuition are to be used against the needs of the budget after county and state aid have been received.

Tuition for pupils resident in Montana State Orphans' Home at Twin Bridges.

"Whenever pupils are inmates of the Montana state orphans' home at Twin Bridges and attend the public high school in Twin Bridges, the latter school shall be reimbursed from the state public school equalization fund at the rate of two hundred fifty dollars ($250.00) for each such pupil; provided, however, that this amount of tuition is not considered as a part of state equalization aid. Application for this tuition from the state is to be made in the same manner and at the same time as for regular state equalization aid.

Application.

Reciprocal tuition with another state.

"Whenever pupils residing in Montana are approved for attendance in a high school in an adjoining state, and whenever pupils in an adjoining state are approved for attendance in a high school in Montana, the above schedule of tuition payments may be waived, and payments arrived at on the reciprocal basis with the state involved. The state superintendent of public instruction is hereby authorized to negotiate with the state superintendent of public instruction of each state involved in arriving at tuition payments, which may either be on a per pupil basis of a flat amount or on an actual cost basis."

Repealing clause. Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 71

An Act to Amend Section 80-706, Revised Codes of Montana, 1947, Relating to the Duties of the Warden; Providing That Except as Provided by Law, the Warden Has Power to Appoint and Remove All Necessary Guards and Assistants, in and About the Prison, Subject to the Approval of the Boards as to the Number Appointed; and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That Section 80-706, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Appointment and removal of prison guards and assistants. "80-706. (12439) **Duties of warden.** *Except as otherwise provided by law,* the warden has power to appoint and remove all necessary guards and assistants, in and about the prison, subject to the approval of the board as to the number appointed."

Repealing clause. Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 72

An Act to Repeal Sections 82-2101, 82-2102, 82-2103, 82-2104, 82-2105, 82-2106, 82-2107, 82-2108, 82-2109, 82-2110, and 82-2111 of the Revised Codes of Montana, 1947, Relating to the Establishment of the Montana Commission on Intergovernmental Cooperation, Its

Duties, Functions, Membership, Reports and Compensation; to Provide the Legislative Council Shall Be a Member of the Commission on Interstate Cooperation; to Provide That the State of Montana Shall Be a Member of the Council of State Governments; to Provide That the Council of State Governments Is to Be a Joint Governmental Agency of the State of Montana and of Other States Which Cooperate Through It; to Provide That the Legislative Council Shall Establish Such Delegations and Committees as May Be Advisable, Providing That Members of Said Delegations and Committees Shall Serve Without Pay, But May Be Reimbursed for Expenses as Provided by Law; and Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That Sections 82-2101, 82-2102, 82-2103, 82-2104, 82-2105, 82-2106, 82-2107, 82-2108, 82-2109, 82-2110, and 82-2111 of the Revised Codes of Montana, 1947, be, and the same are hereby repealed.

Function of legislative council.

Section 2. It shall be a function of the Legislative Council to:

Designated Montana commission on interstate cooperation.

(1) Carry forward the participation of the state of Montana as a member of the Council of State Governments, and the Legislative Council is hereby designated as the Montana Commission on Interstate Cooperation;

Governmental relations.

(2) Encourage and assist the government of this state to develop and maintain friendly contact by correspondence, by conference, and otherwise, with the other states, with the federal government, and with local units of government;

Delegations and committees.

Expenses.

(3) Establish such delegations and committees as may be deemed advisable to confer with similar delegations and committees from other states concerning problems of mutual interest. The membership of such delegations and committees may consist of legislators and employees of the state other than members of the Legislative Council. Members of such delegations and committees shall serve without pay, but they may be reimbursed for expenses as provided by law;

Cooperation with other governments.

(4) Endeavor to advance cooperation between this state and other units of government whenever it seems advisable to do so by formulating proposals for interstate compacts and reciprocal or uniform legislation, and by facilitating the adoption of uniform or reciprocal administrative rules and regulations, informal cooperation of governmental offices, personal cooperation among governmental officials and employees, interchange and clearance of research and information, and any other suitable process.

Declared joint governmental agency.

Section 3. In order to facilitate such cooperation, the Council of State Governments is hereby declared to be a joint governmental agency of this state and of the other states which cooperate through it.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 73

An Act to Amend Sections 38-809 and 38-812, Revised Codes of Montana, 1947; and to Add to the Revised Codes of Montana a Section to Be Numbered 39-809.1, to Provide for an Increase in the Amount Payable by Persons Committed to the Montana State Training School and Hospital or by the Parents or Relatives Legally Liable for the Support of Such Persons; to Provide for the Making of Orders by Boards of County Commissioners and District Courts for Payment of Such Amounts; to Provide a Method of Changing Such Orders; and for the Collection of Such Payments; to Provide for a Review of Amounts Payable Under Existing Orders of Commitment; and Providing for an Effective Date; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 38-809, Revised Codes of Montana, 1947, as amended, is hereby amended to read as follows:

Application for admittance to Montana State Training School and Hospital.

"38-809. **Duty of board as to approved applications—board required to determine amount paid by person admitted or parents.** (1) When an application has been filed with a county board of public welfare, and the reports of the member of the staff investigating such application, and the report of the county physician of his examination of the person named therein, have been filed with such board, if such board finds and determines that he is a proper person to be placed in such training school *and hospital,* such board shall ascertain from the superintendent thereof if there is room for his accommodation in such school, and if there is, the board may then make an order approving such application, and authorizing the transportation to and the placing of such person in such school, and if it appears to such board that the person named in said application has means, money or property out of which the cost of his transportation, care, maintenance, clothing and other necessary personal expenses in such school, or some part thereof could be paid, or that he has parents, or other relatives legally liable for his support and maintenance who are financially able to pay for such transportation, care, maintenance, clothing and other necessary personal expenses while in such school, or a part thereof, the board shall make an order requiring the person or persons having possession of any of said moneys, means or property, or such parents or other relatives, to appear before such board, at a time and place fixed in said order, to testify before such board regarding any such money, means or property of such person or the financial ability of such parents or other relatives to pay for such transportation, care, maintenance, clothing and other necessary expenses.

Payment for maintenance.

Order.

Hearing.

Procedure for determining amount.

(2) After hearing such evidence and examining the report of the investigator filed with such board, the board shall fix and determine the amount, if any, to be paid for such transportation, maintenance, care, clothing and other necessary expenses while in such school out of any money, means or property of such person, or by his parents or other relatives who are legally liable for his support and maintenance; *provided, however, that the amount payable per day, under such order, shall not exceed the average per capita operating cost per day for such school as certified by the superintendent; provided further that the*

Limitation on amount.

amount so certified by the superintendent shall be the amount fixed by such order, unless the board shall affirmatively determine after investigation that a lesser amount should be payable.

Power to review.

(3) The board shall have the power at any time, at the request of any person concerned or of its own motion, to review and change any order for support so made, and may, if necessary, require a further hearing and investigation as provided for in subparagraph (1) of this section.

Remedy for failure to pay.

Duty of county attorney.

(4) If any person liable to make any payments provided for by this section shall fail or refuse to make such payments, the said payments shall be collectible by a civil suit brought in the name of the State of Montana. The county attorney of the county in which the order was made, or in which such person resides, is hereby authorized and required to demand payment of such person and institute a suit, if necessary, to recover such payments.

Section 2. A section is hereby added to the Revised Codes of Montana, 1947, to be called section 38-809.1 which section is to read as follows:

Certification of names by superintendent.

Duty to investigate.

"38-809.1 As soon as possible after the effective date of this act the superintendent of the Montana state training school and hospital shall certify to the boards of county commissioners of the various counties of the state of Montana the names of all persons who have been committed from their respective counties, and of all persons residing within such counties who are responsible for payments for care and maintenance of any person committed to the school. It shall be the duty of each such board of county commissioners to require a new investigation of the financial condition and resources of each such person liable for payments and, if such board shall determine that the payments made by such person should be charged in accordance with the standard provided in section 38-809, Revised Codes of Montana 1947, as amended, a new order requiring such changed payments shall be entered by such board.

Amending clause.

Section 3. Section 38-812, Revised Codes of Montana, 1947, as amended, is hereby amended to read as follows:

Citation.

"38-812. **Citation to persons liable to testify as to**

financial condition—order for support. If it appears to the court on such hearing that the person named in such application has money, means or property out of which the cost of transportation and care, maintenance, clothing and other necessary personal expenses of such person in such school, or some part thereof could be paid, or has parents or other relatives legally liable for his support and maintenance and financially able to pay the same, or a part thereof, a citation may be issued by the court to the person or persons having possession of such moneys, means or property, or any part thereof, and to said parents or other relatives, requiring them to appear and testify concerning such property, or their financial ability to pay for such transportation, care, maintenance, clothing and other expenses at such school, and on such hearing the court may make such order or orders as may be deemed proper for the payment thereof, or some part thereof, out of the moneys, means or property of such person or by such parents or other relatives, which order or orders shall be filed in the office of the clerk of the court, and such clerk shall make a certified copy thereof and deliver the same to the county board of public welfare; provided, however, that the amount *payable per day under such order shall not exceed the average per capita operating cost per day for such school as certified by the superintendent; provided further that the amount so certified by the superintendent shall be the amount fixed by such order, unless the court shall affirmatively determine after investigation that a lesser amount should be payable.*"

Limitation on amount.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 2, 1959.

CHAPTER 74

An Act to Amend Section 75-2006 Relating to Increased

Services of the State Correspondence School and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 75-2006, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Creation of state correspondence schools for students, non citizens and prison inmates.

"75-2006. **State correspondence school created—fees.** There is hereby created a state correspondence school which shall serve the needs of (1) eighth grade graduates who because of remoteness or inability are unable to attend a regular high school, (2) students who need subjects not offered in a regular high school, (3) homebound incapacitated or isolated children who are unable to attend a regular elementary or high school, (4) non citizens who are unable to attend established classes for preparation for citizenship, *(5) inmates of the state prison.* The services of this school shall be available to the above mentioned students *and the inmates of the state prison* at fees to be determined and set by the state superintendent of public instruction with the approval of the state board of education; provided, that in the case of isolated, homebound or incapacitated pupils for whom no regular school is provided, such fees for elementary students shall be paid by the district of residence from the general fund, and in the case of high school students from the high school transfer fund of county of residence; fees for students taking enrichment courses may either be paid by the pupil or the school attended, and adults taking citizenship preparation courses shall pay their own fees.

Fees.

Payment.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 75

An Act to Amend Section 93-8007, Revised Codes of Montana, 1947, Providing for a Stay of Execution in Appeals from Judgments or Orders Directing the Payment of Money; Providing for an Undertaking on Appeal from Judgments and Orders Directing the Payment of Money, and Prescribing the Provisions and Contents thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-8007, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Stay of proceedings—money judgments.

Undertaking for two years for amount of judgment plus interest plus costs on appeal.

Procedure against sureties in event appellant fails to pay.

Limitation on amount.

"93-8007. **Stay of proceedings—money judgments.** If the appeal be from a judgment or order directing the payment of money, it does not stay the execution of the judgment or order unless a written undertaking be executed on the part of the appellant, by two or more sureties, to the effect that they are bound in the amount named in the judgment or order *plus interest at the legal rate for two years, plus estimated costs on appeal, in an amount to be fixed by the trial court;* that if the judgment or order appealed from, or any part thereof, be affirmed, or the appeal dismissed, the appellant will pay the amount directed to be paid by the judgment or order, or the part of such amount as to which the judgment or order is affirmed, if affirmed only in part, and all damages and costs which may be awarded against the appellant upon the appeal, and that if the appellant does not make such payment within thirty days after the filing of the remittitur from the supreme court in the court from which the appeal is taken, judgment may be entered on motion of the respondent in his favor against the sureties for such amount, together with the interest that may be due thereon, and the damages and costs which may be awarded against the appellant upon the appeal. If the judgment or order appealed from be for a greater amount than two thousand dollars ($2,000.00), and the sureties do not state in their affidavits of justification accompanying the undertaking that they are each worth the sum specified in the undertaking, the stipulation may be that the judgment to be entered against the sureties shall be for such amounts only as in their affidavits they may state that they are severally worth, and judgment may be entered against the sureties by the court from which the appeal is taken, pursuant to the stipulations herein designated."

Approved March 2, 1959.

CHAPTER 76

An Act to Amend Section 66-1508 of the Revised Codes of Montana, 1947, Relating to the Licensing of Pharmacies and Stores Other Than a Pharmacy; Providing an Increase in the Annual Fee from Three Dollars ($3.00) to Five Dollars ($5.00); Providing for Authorized Licensed Stores Other Than Pharmacies to Sell, Deliver or Give Away Certain Household Medicinal Drugs; Providing Penalties for Violation of the Act; Providing for Revocation of Said Licenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-1508 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows, to wit:

License and fee for vendors other than a pharmacy for sale of packaged medicinal drugs.

"66-1508. (a) The state board of pharmacy shall upon application upon such forms as it may prescribe and upon the payment of an annual fee of *five dollars ($5.00),* license stores other than a pharmacy wherein may be sold ordinary household or medicinal drugs prepared in sealed packages or bottles by a manufacturer, qualified under the laws of the state wherein such manufacturer resides. The name and address of such manufacturer shall appear conspicuously on each package sold by such licensee. It shall be unlawful for any such store to sell, *deliver or give away* such household medicinal drugs, without first having secured such license and thereafter keeping the same in force by proper renewal, provided, also, that nothing herein shall be construed to prevent any vendor from selling any patent or proprietary medicine in the original package when plainly labeled, nor such non medical articles as are usually sold by such vendors.

Unlawful without license.

License and fee for certified pharmacies.

"(b) The state board of pharmacy shall require and provide for the annual registration and licensing of every pharmacy now or hereafter doing business within this state within the meaning of the act. Upon presentation of evidence satisfactory to the board *and upon application upon such form as the board may prescribe and upon the payment of an annual fee of five dollars ($5.00), the board shall* license any pharmacy as a 'CERTIFIED PHARMACY,' provided, however, that such license shall be granted only to such pharmacies as are operated by registered pharmacists or assistant registered pharmacists qualified as herein prescribed. Such license must be exposed in a conspicuous place in the pharmacy for which it is issued, and shall expire on the thirtieth day of June following the date of issue. It shall be unlawful for any person to conduct such pharmacy unless such license has been duly issued and is in full force and effect.

Registered pharmacists.

License display and expiration.

Unlawful without license.

"(c) The board may suspend, revoke or refuse to renew any store or pharmacy license obtained by false representation, or fraud of any character, or when the pharmacy for which the license shall have been issued is kept open for the transaction of business without a pharmacist in charge thereof, or when the person to whom *the* license shall have been granted has been convicted for violation of any of the provisions of the act or for a felony, *or convicted for any violation of the Federal Food, Drug and Cosmetic Act of June 25, 1938, (52 United States Statutes at Large, 1040 through 1059; Title 21, United States Code, sections 301-392 as from time-to-time revised, amended, and supplemented),* or, if a natural person, whose pharmacist or assistant pharmacist license has been revoked, or when the store or pharmacy is conducted in violation of the provisions of this act. Before any license can be revoked the holder thereof shall be entitled to a hearing by the board after reasonable notice, and judicial review of the action of the board."

Authority of board to suspend, revoke or refuse renewal.

Hearing.

Judicial review.

Approved March 2, 1959.

CHAPTER 77

An Act to Amend Section 11-2008 (a) Revised Codes of Montana, 1947, as Amended by Chapter 75, Laws of 1957, Relating to Fire Protection Districts by Authorizing County Commissioners to Contract for Private Fire Service Protection and That Such Contracts Shall Be on the Basis of an Independent Contractor; and to Amend Section 11-2010 (a), Revised Codes of Montana, 1947, as Amended by Chapter 75, Laws of 1953, Relating to Fire District Trustees by Authorizing County Commissioners to Contract With a City, Town or Private

Fire Company to Furnish Fire Protection Within the District; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-2008 (a) of the Revised Codes of Montana, 1947, as amended by Chapter 75, Laws of 1957, be, and the same is hereby amended to read as follows:

Fire districts—contracts with cities, towns and private service.

"11-2008. (5148) **Fire protection — creation of fire districts — contracts with cities, town** *and private service* **— dissolution and change of boundaries.**

Procedure.

Petition.

Notice of hearing.

Publication.

Hearing.

Decision.

Special tax.

(a) The board of county commissioners is authorized to establish fire districts in any unincorporated territory, town or village upon presentation of a petition in writing signed by the owners of fifty per cent (50%) or more of the area included within the proposed district who constitute a majority of the taxpayers who are freeholders of such area, and whose names appear upon the last completed assessment roll; the board shall within ten (10) days after the receipt of such petition; give notice of the hearing thereof at least ten (10) days prior thereto by causing notices of the time and place of such hearing to be posted in at least three (3) of the most public places within the area proposed to be established as a fire district, and published at least once not less than ten (10) or more than twenty (20) days prior to the time of said hearing in a newspaper regularly published in the county in which such proposed district is situated. The board shall proceed to hear the said petition at the time set therefor, or at any time within five (5) days thereafter to which the same shall have been postponed or continued with due notice, and may grant the same unless it shall be established thereat that the petition bears insufficient signatures as above required, or, if originally sufficient, that by reason of written withdrawals thereof it has become insufficient. The board shall render its decision within thirty (30) days after said hearing. At the time of the annual levy of taxes the board of county commissioners may levy a special tax upon all property within such district for the purpose of buying *or* maintaining fire protection facilities and apparatus for such districts, or for the purpose of paying to a city, town *or private fire* *service* the consideration provided for in any contract with the council of such city, town *or private fire service for the purpose of furnishing* fire protection service to property within such district, and such tax must be collected as are other taxes. *That the relationship between the fire district and the city, town or private fire service shall be that of an independent contractor.*

Independent contractor relationship.

Dissolution.

Petition.

(b) Any fire district organized under this act may be dissolved by the board of county commissioners upon presentation of a petition therefor signed by the owners of fifty percent (50%) or more of the area included within such fire district and who constitute a majority of the taxpayers who are freeholders of such area, and whose names appear upon the last completed assessment roll. The procedure and requirements outlined in subsection (a) above shall apply to such requests for dissolution of fire districts.

Procedure.

Change of boundaries—division.

Petition.

(c) Change of boundaries—division. Fire districts may be devided in the following manner: Whenever a petition in writing shall be made to the county commissioners, signed by the owners of twenty per cent (20%), or more, of an area proposed to be detracted from the original district, and who constitute twenty per cent (20%), or more, of the taxpayers who are freeholders within such proposed detracted area, whose names appear upon the last completed assessment roll, the county commissioners shall, within ten (10) days from the receipt of such petition give notice of the hearing of said petition by causing to be posted, a notice thereof at least ten (10) days prior to the time appointed by them for the consideration of said petition, in at least three (3) of the most public places within the proposed detracted area, and also in at least three (3) of the most public places within the remaining area. The petition for detraction shall describe the boundaries of the proposed detracted area, and also the boundaries of the remaining area. The county commissioners shall, on the day fixed for hearing such petition (or on any legally postponed day), proceed to hear said petition; and said petition shall be granted, and the original district shall thereupon be divided into separate districts, unless at the time of the hearing on such petition protests shall be presented by the owners of fifty per cent (50%), or more, of the area included within the entire

Notice of hearing.

Boundaries described.

Protest.

original district, and who constitute a majority of the taxpayers who are freeholders of the entire original district, and whose names appear upon the last completed assessment roll. If such required amount of protests are presented, the petition for division shall be disallowed. Upon the division of districts, moneys on hand shall be apportioned between the divided areas according to their respective taxable valuations; all other assets of the original district shall become the property of the remaining area, but a reasonable value shall be placed upon such 'other assets' and the remaining area shall become indebted to the detracted area for its proportionate share thereof, based upon taxable valuations. Provided, however, that any detracted area shall remain liable for any existing warrant and bonded indebtedness of the original district.

Petition disallowed when.

Apportionment of moneys and assets.

Liability.

(d) Change of boundaries — annexation. Contiguous territory that is not already a part of a fire district may be annexed in the following manner: A petition in writing by the owners of fifty per cent (50%), or more, of the contiguous area proposed to be annexed, and who constitute a majority of the taxpaying freeholders within such proposed area to be annexed, whose names appear upon the last completed assessment roll, shall be presented to the board of county commissioners. The commissioners shall hold a hearing on such petition, in accordance with the procedure outlined in subsection (c) above; and shall allow the annexation of such proposed contiguous territory, unless protests are presented at the hearing by the owners of fifty per cent (50%), or more, of the area included within the original district, and who constitute a majority of the taxpaying freeholders within the original district. Such annexed territory shall become liable for any outstanding warrant and bonded indebtedness of the original district.

Change of boundaries—annexation petition.

Hearing.

Protest.

Liability.

"Contiguous territory that is already a part of a fire district may withdraw from such fire district and become annexed to another fire district in the following manner: A petition in writing by the owners of fifty per cent (50%), or more, of an area which is part of any organized fire district, and who constitute a majority of the taxpaying freeholders within such area, according to the last completed assessment roll, shall be presented to the county commissioners asking that such area be trans-

Withdrawal and annexation.

Petition.

ferred to, and included in, any other organized fire district to which said area is contiguous. Said petition must set forth the change of boundaries to be affected by such proposed transfer of area. The commissioners shall hold a hearing on the petition in accordance with the procedure outlined in subsection (c), above; and the withdrawal and annexation shall be allowed unless protests are presented at the hearing by the owners of fifty per cent (50%), or more, of the area included within both districts affected, and who constitute a majority of the taxpaying freeholders of both districts, according to the last completed assessment roll, and provided, that such withdrawals and annexation shall be allowed only upon a showing of more advantageous proximity and communications with the fire-fighting facilities of the other district."

Boundaries described.

Hearing.

Showing of proximity.

Section 2. That section 11-2010 of the Revised Codes of Montana, 1947, as amended by chapter 75, Laws of 1953, be, and the same is hereby amended to read as follows:

Amending clause.

"11-2010. (5149) **Trustees of fire districts—Appointment—Powers.**

(a) Whenever the board of county commissioners shall have established a fire district in any unincorporated territory, town or village, said commissioners *may contract with a city, town or private fire company to furnish fire protection for property within said district, or* shall appoint five qualified trustees to govern and manage the affairs of the fire district, who shall hold office until their successors are elected and qualified, as hereinafter provided. Qualifications of electors and trustees, terms of office, vacancies, manner and date of elections, shall, as far as possible, be the same as provided in the school election laws for school districts of the second class; except, that only electors who are taxpayers affected by the special fire district levies may vote at such elections, and be qualified to serve as trustees; and except, also, there need be no special registration of electors.

Trustees—appointment.

(b) Power of trustee. The trustees shall organize by choosing a chairman, and appointing one member to act as secretary. They shall prepare and adopt suitable bylaws; appoint and form fire companies that shall have the same duties, exemptions, and privileges as other fire com-

Powers and duties.

panies. The trustees shall have the authority to provide adequate and standard fire-fighting apparatus, equipment, housing and facilities for the protection of the district; and shall prepare annual budgets and request special levies therefor. The budget laws relating to county budgets, shall, as far as applicable, apply to fire districts.

Power to contract. (c) The trustees of such fire district may contract with the council of any city or town lying within five (5) miles of the farthest limits of the district, for the extension of fire protection service by such city or town to property included within the district, and may agree to pay a reasonable consideration therefor, provided, that the owners of ten per cent (10%) of the taxable value of the property in any fire district may elect to make a contract with the city fire department for fire protection, or to be included in the fire district protection facilities. Likewise, the trustees may contract to permit the fire district equipment and facilities to be used by such cities or towns lying within the district."

Repealing clause. Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 78

An Act to Amend Section 90-129, Revised Codes of Montana, 1947, as Amended by Chapter 89 of the Session Laws of the Thirty-fifth Legislative Assembly of Montana, 1957, Relating to the Inspection of Weighing and Measuring Devices by Providing that the Removal of Any State Seal or Rejection Notice on Any Measuring Device Shall be Prima Facie Evidence of the Guilt of the Defendant; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That section 90-129 of the Revised Codes of Montana, 1947, as amended by chapter 89 of the Session Laws of the Thirty-fifth Legislative Assembly of Montana, 1957, be, and the same is hereby amended to read as follows:

"90-129. (4243) **Authority to inspect weighing and measuring devices and penalty for tampering with seal.** The state sealer of weights and measures, or his deputies shall have power to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of any kind, instruments or mechanical devices for measurement, and the tools, appliances, or accessories connected with any and all of such instruments or measurements, used, kept for use, sold, offered for sale, or kept for sale, or employed within the state by a proprietor, agent, lessee or employee in determining the size, quantity, extent, area or measurement of quantities, things, produce, articles for distribution or consumption, offered or submitted by such persons for sale, hire, or award. Provided also, that the state sealer of weights and measures, or his deputies, shall at least once a year and as often as may be deemed necessary, try and prove all computing scales and other devices having a device for indicating or registering the price as well as the weight of the commodity offered for sale. Computing devices, which may be used by any person at any place within this state, shall be tested as to the correctness of both weight and arithmetical values indicated by them.

Authority to inspect weighing and measuring devices.

Duties of state sealer.

"The state sealer of weights and measures, or his deputies shall have in addition to the above-mentioned powers, the power to inspect and classify all meters, measuring, gauging or testing devices and apparatus used in connection with the wholesale and retail distribution of petroleum and petroleum products, and may prescribe suitable standards of accuracy for such meters and measuring devices, conformable to the standards fixed by the United States bureau of standards for such devices.

Power to inspect and classify.

"It shall be unlawful to remove any state seal or rejection notice placed on the adjustment of any gasoline pump, meter, or petroleum measuring device and scale such as, but not limited to, retail pumps, wholesale meters, tank markers and measuring cans, except by repairmen certified by the state sealer of weights and measures, or where they have received a temporary permit from the department of agriculture. *In prosecutions for offenses under this section, proof of the removal of any state seal or rejection notice on any of the measuring devices owned*

Unlawful to remove seal.

Prima facie evidence.

Misdemeanor.

Penalty.

or used by the defendant charged with the commission of said offense shall be prima facie evidence of the guilt of the defendant. Any person found guilty of violating this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00).''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 79

An Act to Amend Section 75-3938, Revised Codes of Montana, 1947, Providing for the Qualifications of Voters in an Election for the Issuance of Bonds of Any School District, Town or City, and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-3938, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Qualification of voters.

Proviso—no ground for denial.

''75-3938. (1253) **Qualification of voters.** In all elections hereafter held for the issuance of bonds of any school district, town or city, only qualified registered electors who are taxpayers upon property therein, and whose names appear on the assessment-roll for the year next preceding such election, shall be entitled to vote thereat; *provided however, that no such elector, otherwise qualified hereunder, shall be denied the right to vote by reason of the fact that the polling place for a general election for the precinct wherein he resides and is entitled to vote, lies within another school district, town or city.''*

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1959.

CHAPTER 80

An Act to Provide for the Coloration of Wheat, Oats, Rye or Barley When Being Treated with an Injurious or Toxic Substance or Chemical, Providing a Penalty; and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Coloring of treated grain.

Section 1. Any wheat, oats, rye or barley treated with any injurious or toxic substance or chemical shall at the same time be colored or dyed a color contrasting with the natural color of such wheat, oats, rye or barley, so that the treated wheat, oats, rye or barley is readily identifiable as having been treated with an injurious or toxic substance or chemical.

No sale of treated grain unless colored.

Section 2. No person, firm, corporation or association shall sell or offer for sale, any wheat, oats, rye or barley which has been treated with any injurious or toxic substance or chemical unless the wheat, oats, rye or barley has been colored or dyed a color contrasting with the natural color of the wheat, oats, rye or barley. This act shall not apply to the treatment of any wheat, oats, rye or barley which solely is for the killing of insects which might be present therein. Provided, however, that if such treatment uses any injurious or toxic substance for the killing of insects, then such grain must be colored or dyed as hereinabove provided if offered for sale.

Misdemeanor.

Section 3. Any person, firm, corporation or association violating any of the provisions of this act shall be guilty of a misdemeanor.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 81

An Act to Repeal Sections 3-1801 Through and Including 3-1807, Revised Codes of Montana, 1947, Relating to the

Licensing of Hay Dealers; Providing an Effective Date of this Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That sections 3-1801 through and including 3-1807 of the Revised Codes of Montana, 1947, be repealed.

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1959.

CHAPTER 82

An Act Providing for a Section to be Known as Section 3-2011 and Authorizing the Commissioner of Agriculture to Issue Stop Sale, Use or Removal Orders on Commercial Feed; Providing a Penalty for Violation of Any Order and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 3-2011, R.C.M., 1947.

Section 1. That the section to be known as section 3-2011, be, and the same shall read as follows:

Stop orders for sale of commercial feed in violation of sections 3-2001 through 3-2010, R.C.M., 1947.

Misdemeanor.

"3-2011. **Stop orders.** The commissioner of agriculture may issue and enforce stop sale, use or removal orders to the owner or custodian of any lot of commercial feed when the commissioner or his authorized agent has reasonable cause to believe that said feed is being offered or exposed for sale in violation of any of the provisions of sections 3-2001 through 3-2010, Revised Codes of Montana, 1947. On receipt of the order, the owner or custodian shall not dispose of said feed until the provisions hereinbefore cited have been complied with and the feed is released in writing by the commissioner. The violation of any order shall be a misdemeanor."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 83

An Act to Amend Section 53-422, Revised Codes of Montana, 1947, Relating to Determination of Security Required—Suspension of License and Registration—Exceptions—Liability Insurance; Providing that the Motor Vehicle Registrations of Vehicles Involved in Accidents Shall Not be Suspended on Co-Owned Vehicles; and to Amend Section 53-423, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 187, Laws of Montana, 1957, Relating to Exceptions to Security Requirements; Providing that the Operator or the Owner of a Legally-Stopped Vehicle Shall be Excepted from Security Requirements; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 53-422, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Determination of security in event of motor vehicle accident resulting in damage.

"53-422. **Determination of security required—Suspension of license and registration—Exceptions—Liability Insurance.** (a) If within twenty (20) days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person in excess of one hundred dollars ($100.00), the supervisor does not have on file evidence satisfactory to him that the person who would otherwise be required to file security under subsection (b) of this section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the supervisor shall determine the amount of security which shall be sufficient in his judgment to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each operator or owner.

Suspension of license and registration.

"(b) The supervisor shall, within sixty (60) days after the receipt of such report of a motor vehicle accident, suspend the license of each operator and the registrar, upon request of the supervisor, shall suspend all registrations of each *and every* owner *or co-owner* of a motor vehicle, *which is* in any manner involved in such accident, *except those registrations of co-owned vehicles not involved in such accident* and if such operator is a non-resident the privilege of operating a motor vehicle within this state, and if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner or both shall deposit security in the sum so determined by the supervisor; provided notice of the suspension of such registration or registrations shall be sent by the registrar to such operator and owner not less than ten (10) days prior to the effective date of such suspension and such notice shall state the amount required by the supervisor as security. Where erroneous information is given the supervisor with respect to the matters set forth in subdivisions 1, 2 or 3 of subsection (c) of this section, he shall take appropriate action as hereinbefore provided, within sixty (60) days after the receipt by him of correct information with respect to said matters.

Exception—vehicles not involved.

Nonresident.

Notice.

Erroneous Information.

"(c) This section shall not apply under the conditions stated in section 53-423, nor:

Exceptions.

Section 53-423, R.C.M., 1947.

1. to such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

Liability insurance policies.

2. to such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

3. to such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the supervisor, covered by any other form of liability insurance policy or bond; nor

4. to any person qualifying as a self-insurer under section 53-451, or to any person operating a motor vehicle for such self-insurer.

Self-insurer.

"No such policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this state, except

Policy or bond—when not effective.

that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance company or surety company if not authorized to do business in this state shall execute a power of attorney authorizing the supervisor to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident; provided, however, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than five thousand dollars ($5,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than ten thousand dollars ($10,000.00) because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than one thousand dollars ($1,000.00) because of injury to or destruction of property of others in any one accident."

Power of attorney.

Minimum limits of policy or bond.

Section 2. That section 53-423, Revised Codes of Montana, 1947, as amended by section 1, chapter 187, Laws of Montana, 1957, be, and the same is hereby amended to read as follows:

Amending clause.

"53-423. **Further exceptions to requirement of security.** The requirements as to security and suspension in section 53-422 shall not apply:

Exceptions to requirements of security.

1. to the operator or the owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of any one other than such operator or owner;

No injury or damage.

2. to the operator or the owner of a motor vehicle legally parked *or legally stopped* at the time of the accident;

Legally parked or legally stopped vehicle.

3. to the owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who has been operating such motor vehicle without such permission; nor

Operated without permission.

Release from liability prior to time for suspension.

4. if, prior to the date that the supervisor would otherwise suspend license and request and require of the registrar suspension of registration or nonresident's operating privilege under section 53-422, there shall be filed with the supervisor evidence satisfactory to him that the person who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident; nor

Evidence of settlement prior to time for suspension.

5. if, prior to the date that the supervisor would otherwise suspend the license or the nonresident's operating privilege under section 53-422, there shall be filed with the supervisor evidence satisfactory to him that the person who would otherwise be required to file security has in any manner settled the claims of the other persons involved in the accident and if the supervisor determines that, considering the circumstances of the accident and the settlement, the purposes of this act and of protection of operators and owners of other motor vehicles are best accomplished by not requiring the posting of security or the suspension of the license. For the purpose of administering this section, the supervisor may consider a settlement made by an insurance company as the equivalent of a settlement made directly by the insured."

Settlement by insurance company.

Repealing clause.

Section 3. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 84

An Act to Amend Section 31-155, Revised Codes of Montana, 1947, Relating to Additional Penalty for Persons Who Drive While Privilege to Do So is Suspended and Prohibiting Board from Issuing License to Person Whose License is Revoked; Providing for Additional Like Period of Revocation for Persons Convicted of

Driving While Privilege to Do So is Revoked; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-155, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Penalty for driving while license suspended or revoked.

"31-155. **Driving while license suspended or revoked.** (a) Any person who drives a motor vehicle on any public highway of this state at a time when his privilege so to do is suspended or revoked shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not less than two (2) days or more than six (6) months and there may be imposed in addition thereto a fine of not more than five hundred dollars ($500.00).

Extension on conviction.

(b) "The board upon receiving a record of the conviction of any person under this section upon a charge of driving a vehicle while the license of such person was suspended *or revoked* shall extend the period of such suspension *or revocation* for an additional like period."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 85

An Act to Amend Section 59-704 of the Revised Codes of Montana, 1947, as Amended, Relating to the Distribution of Public Reports, to Provide for a Minimum Distribution of Four (4) Mimeographed or Carbon Copies of Reports to the Librarian of the Historical Society of Montana, to Provide for a Minimum Distribution of Forty (40) Copies of Printed Reports Furnished by State Institutions, Offices and Departments Presenting An Annual or Biennial Report to the Librarian of the State Historical Society; to Provide for the Transmittal to the United States Library of Congress two

(2) Copies of Each Report by the Historical Society of Montana, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 59-704 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows:

Mandatory distribution of public reports.

"59-704. (521) **Distribution of public reports.** The reports shall be distributed by the department responsible for making the report. Such distribution shall be within the discretion of the head of the department making the report, but the following distribution shall be mandatory:

To the governor.

To the governor—as many as he desires, but not less than twenty-five (25) copies of each report.

To the secretary of state.

To the secretary of state—twenty-five (25) copies of each report.

To the librarian.

To the librarian of the state historical library—*forty (40) copies of printed reports and a minimum of four (4) copies of mimeographed or carbon reports.*

Distribution of publications by Historical Society of Montana.

The Historical Society of Montana shall distribute publications so received to the public libraries, and other educational, scientific, library or art institutions of the state, which may apply to be put on the mailing list for all or a portion of the state publications; and to such libraries and other institutions outside this state with which the Historical Society of Montana may have established exchange relations.

To United States Library of Congress.

"The Historical Society of Montana shall transmit to the United States Library of Congress, two (2) copies of every administrative report or study.

To Legislative Assembly.

To the legislative assembly of the State of Montana—one (1) copy for each member."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 86

An Act to Amend Section 93-1401, Revised Codes of Montana, 1947, as Amended by Chapter 133, Laws of the Thirty-first Legislative Assembly of the State of Montana, 1949, Relating to Jury Lists, by Whom and When to Be Made, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-1401, Revised Codes of Montana, 1947, as amended by chapter 133, Laws of the Thirty-first Legislative Assembly of the State of Montana, 1949, be, and the same is hereby amended to read as follows:

Duty to make jury lists—by whom and when.

"93-1401. (8896) **Jury lists, by whom and when to be made.** The chairman of the county commissioners, or in his absence, any member of the board of county commissioners, the county treasurer, and the county assessor, or any two of such officers, of each county must meet at the county seat of each county at the office of the county clerk on the second Monday of *December* of each year, for the purpose of making a list of persons to serve as trial jurors for the ensuing year. If they fail to meet on the day specified in this section, they must meet as soon thereafter as practicable. The first meeting of such officers for the purpose of making such list is within ten (10) days after this code takes effect."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 87

An Act to Amend Section 23-1813, of the Revised Codes of Montana, 1947, Relating to Transmittal of Election Returns by Clerks of County Commissioners to the Secretary of the State, to Provide that Said Transmittal of Said Election Returns Shall Be Accomplished by Certified Mail; and Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 23-1813 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Clerk must transmit election returns by certified mail.

"23-1813. **How transmitted.** The clerk must seal up such abstract, endorse it 'Election Returns,' and without delay transmit it to the secretary of state *by certified mail.*"

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 88

An Act to Amend Section 93-1509 of the Revised Codes of Montana, 1947, Relating to County Sheriffs Summoning Jurors, to Provide that Notice Shall be Accomplished by Certified Mail; and Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-1509 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Sheriff shall summon jurors by certified mail.

"93-1509 (8910) **Sheriff to summon jurors, how.** The sheriff, as soon as he receives a list or lists of jurors drawn, shall summon the persons named therein to attend the court at the time mentioned in the order, by a written notice by *certified* mail to that effect addressed to them to the postoffice address named in the jury list and deposited in the postoffice with the postage thereon prepaid, except in cases where the district judge expressly directs that such service shall be made by giving personal notice, and shall return the list to the court at the opening of the regular session thereof, or at such session or time as the jurors may be ordered to attend, specifying the names of those who are summoned, and the manner in which each person was notified."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 2, 1959.

CHAPTER 89

An Act to Amend Section 84-710 of the Revised Codes of Montana, 1947, Relating to the Sending of Notice of Intention by the State Board of Equalization to Change Assessment of Property, to Provide that the State Board of Equalization Shall Send Said Notice by Certified Mail; and Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 84-710 of the Revised Codes of Montana, 1947, shall be, and the same is hereby amended to read as follows:

Amending clause.

"84-710 (2122.10) **Notice of intention to change assessment.** When the state board of equalization shall contemplate making any change in the assessment of any property assessed to any particular person (except in a case where an appeal has been filed with the state board) said board shall, before making any change in such assessment, fix a time and place for a hearing thereon, and give to such taxpayer written notice of such hearing by *certified* letter deposited in the post office postpaid, and directed to said taxpayer at his last known place of residence, at least ten (10) days before the day fixed for such hearing. Such notice shall state the purpose of such hearing and the time and place when the same will be held.

Procedure for change in assessment of person.

Hearing.

Notice by certified letter to taxpayer.

"When the state board of equalization shall contemplate raising or lowering the assessed valuation of any one or more classes of property in any county, it shall give notice of its contemplated action to the board of county commissioners of the county in which such class or classes of property is situated, in such manner as it shall deem

Procedure for change in assessment and method of notice to county or counties.

proper and sufficient, and shall fix a time and place within the county in which such change of assessment is proposed for a hearing thereon; provided, however, that if the change affects one or more classes of property common to more than one county the board shall fix the time and place of hearing so as to accommodate the counties interested. At the time and place fixed for such hearing any taxpayer or any officer of any municipal corporation interested therein may appear and be heard.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 90

An Act to Amend Section 28-105 of the Revised Codes of Montana, 1947, Relating to the State Board of Forestry; to Provide for the Creation of Organized Forest Fire Protection Districts; and to Provide Through the State Forester for Forest Fire Protection by the State Forester's Organization.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 28-105 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Powers and duties of State Board of Forestry enumerated.

''28-105. **Powers of board.** To effectuate, accomplish and maintain the purposes of this act, the board is hereby authorized and empowered:

(a) To classify the forest land areas of the state for which conservation and fire protection measures are reasonably required, and to change or modify such classification from time to time as in its judgment shall be proper.

(b) To create organized forest *fire* protection districts.

(c) To provide *through the state forester for forest fire* protection of any forest lands by *the state forester's organization,* or by contract or any other feasible means, in cooperation with any federal, state or other recognized agency or agencies.

(d) To make and enforce reasonable rules and regulations for the purpose of enforcing and accomplishing the provisions and purposes of this act; provided, however, such rules and regulations shall not conflict with the powers of the state board of land commissioners.

(e) To cooperate with the government of the United States and any of its bureaus, services and agencies in accordance with federal statutes and regulations thereunder."

Approved March 2, 1959.

CHAPTER 91

An Act to Amend Section 28-109 of the Revised Codes of Montana, 1947, as Amended, Relating to the State Board of Forestry; to Provide for the Classification of Lands for Forest Fire Protection Purposes; and to Provide for the Duties of the Owners of Classified Forest Land.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 28-109 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows:

Amending clause.

"28-109. **Duty of owner of classified forest land.** Every owner of forest land classified as such by the board is hereby required to furnish protection against the starting or existence, and to suppress the spread, of fire on such land during the full period of each forest fire season defined by this act. Such protection and suppression shall be in conformity with reasonable rules and standards for adequate fire protection to be prescribed by the board. If such owner does not provide for such protection and suppression, said board may provide the same, at a cost *to the land owner* of not *more* than *ten cents (10¢) per acre per year for Class I land and not more than three cents (3¢) per acre for Class II land* and in the

Duties of owner of forest land to provide fire protection.

Cost for failure to act.

event thereof, the owner of such land shall pay to the county treasurer of the county in which such land is situated, the charge for the same approved by the board, in accordance with the provisions of this act. *No other charges shall be assessed those landowners participating, except in cases of proven negligence on the part of the landowner or his agent.*

Method of classifying forest land.

"The forest land of Montana shall be classified for protection and assessment purposes as follows:

"(a) Class I—Land—Shall include all forest land primarily suitable for production of timber, forest land primarily suitable for joint use for timber production and the grazing of livestock as a permanent or semipermanent joint use or as a temporary joint use during the interim between logging and reforestation.

"(b) Class II—Land—Shall include all lands primarily suitable for grazing or other agricultural purposes, which are intermingled with or contiguous to the land described in subsection a, above."

Approved March 2, 1959.

CHAPTER 92

An Act to Amend Section 28-110 of the Revised Codes of Montana, 1947, Relating to Forest Fire Protection by the State Board of Forestry and Providing for Compliance of Forest Fire Laws; Providing for the Designation of Boundaries of Forest Fire Protection Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 28-110 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Compliance by owner of forest land.

"28-110. **What constitutes compliance.** Every owner of *Class I and Class II* forest lands within an organized forest protection district, while a member of, or while participating in a recognized agency for forest protection shall be deemed to have fully complied with the requirements of section 28-109.

Designation of boundaries of forest fire protection districts.

"In establishing boundaries of organized forest fire protection districts covering forest lands described in section 28-109, a and b, the board may for the purpose of administrative convenience designate roads, pipelines, streams, or other recognizable landmarks as boundaries."

Approved March 2, 1959.

CHAPTER 93

An Act to Amend Section 28-103 of the Revised Codes of Montana, 1947, Relating to Fire Protection; to Provide for the Definition of Forest Land, for the Purposes of this Act; to Allow the State Forester to Expand the Forest Fire Season; and to Provide for the Creation of Protection Zones.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 28-103 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"Forest land" defined for fire protection.

"28-103. **Definitions,** *as Used in This Chapter. Forest land, for fire protection purposes, is defined as any land which has enough timber, standing or down; slash or brush, to constitute in the judgment of the board a fire menace to life or property, provided, that grassland and agricultural areas are included when such areas are intermingled with or contiguous to areas of forest land.*

"Forest fire" defined.

"Forest fire is defined as a fire burning uncontrolled on forest lands.

"Forest fire protection district" defined.

"Organized forest *fire* protection district is defined as a definite forest land area, the boundaries of which are fixed, and wherein, *forest fire protection is provided* through the medium of an agency recognized by the board.

"Recognized agency" defined.

"Recognized agency is defined as an *agency representing* owners of forest lands in an organized forest *fire* protection district, organized for the purpose of providing forest *fire* protection in such district and recognized by the board as giving adequate fire protection to such forest lands in accordance with rules and regulations prescribed by the board. Any public agency administering and protecting forest lands may also be recognized by the board as such an agency.

"Forest fire season" defined.

"Forest fire season is defined as the period of each year beginning on May first and ending on September thirtieth, inclusive; provided, however, that in the event of excessive or great fire danger, *this period may be expanded when in the judgment of the state forester dangerous fire conditions exist. When so expanded, the state forester shall give public notice.*

Notice of extension.

"Forest fire protection" defined.

"Forest *fire* protection is defined as the work of prevention, detection and suppression of *forest fires.*

"Protection zone" defined.

"Protection zone is a broad area within which the forest fire protection costs are approximately the same. Protection zones will be designated by the state forester, with the approval of the board.

"Owner" defined.

"Owner is defined as the person, firm, association or corporation having the actual, beneficial ownership of forest land, or timber, other than an easement, right-of-way, or mineral reservation.

Approved March 2, 1959.

CHAPTER 94

An Act to Amend Section 28-104 of the Revised Codes of Montana, 1947, Relating to Land or Timber Owner's Responsibility to Provide for Conservation and Fire Protection Measures Being Applicable to Noncommercial and Nonmerchantable Timber.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 28-104 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"28-104. **Responsibility of actual owner of land or timber—Scope of act.** (a) In any instance where the owner as herein defined does not appear upon the public records as the holder of the legal title to such land or timber, he is nevertheless primarily responsible for the performance of the acts and duties imposed upon him by this act. Where the owner of the timber is not the owner of the land, the primary responsibility for the performance of the acts and duties imposed by this act shall be upon the owner of the timber.

Responsibility of actual owner of land or timber.

"(b) Sections 28-101 to 28-129 shall apply to all forest lands within the State of Montana which shall be officially classified by the board as forest lands *according to the definition of forest land in Section 28-103 hereof.*"

Applies to all classified forest lands.

Approved March 2, 1959.

CHAPTER 95

An Act to Amend Section 28-111 of the Revised Codes of Montana, 1947, Relating to Forest Fire Protection; and to Provide for the Determination of the Cost of Forest Fire Protection and Certification.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 28-111 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"28-111. **Determination of Cost of Fire Protection—Certification—Tax levy.** *The state forester will prepare a fire protection plan, for the approval of the board in which the fire protection costs for each classification within each protection zone is determined. The board will establish the portion of the planned fire protection costs to be borne by the state, and the portion to be borne by the owners of classified forest land. The state forester will request the legislature to appropriate the state's portion as approved by the board. After the appropriation is made by the legislature, the board will cause an assessment to be made on the owners of classified forest land, as specified in section 28-109, sufficient to bring the total*

Procedure for determining cost of forest fire protection.

Duties of state forester.

amount received to the amount specified in the approved plan.

Duties of secretary.

"On or before the *second* Tuesday in *August* of each year, the secretary shall determine the names of all owners who shall have failed to provide the forest *fire* protection for their lands required by this act, together with the description of such lands and the acreage thereof, and calculate the total amount due to the board from each such owner for such forest *fire* protection which shall not exceed the maximum hereinbefore specified.

"The secretary shall submit a statement of the foregoing to the board and upon approval thereof by the board, the secretary shall certify in writing to the *county assessor* of each county, the names of such owners of forest lands in his county, together with a description of such lands and a statement of the amount so found to be due and owing by each of such owners to the board for forest *fire* protection.

Duties of county assessor.

"Upon receiving such certificate from the secretary showing the amount due, the *county assessor* shall extend the amounts so certified upon the county tax rolls covering such lands, and such sums shall become obligations of the owner to be paid and collected in the same manner and at the same time and with like penalties as general state and county taxes upon the same property are collected. All sums so collected shall be promptly transmitted to the state treasurer, who is hereby required to deposit the same in a special fund designated the foresters' cooperative work fund, as provided for *in Section 81-1410, Revised Codes of Montana, 1947.*"

Approved March 2, 1959.

CHAPTER 96

An Act to Amend Section 26-104, Revised Codes of Montana, 1947, as Amended by Chapter 40, Session Laws of 1951, and Chapter 157, Session Laws of 1955, and Chapter 151, Session Laws of 1957, Relating to the Powers and Duties of the State Fish and Game Commission and Adding Subsection (26) Thereto, Providing for the Authority to Promulgate and Enforce Rules and Regulations Governing Recreational Uses of Public Fishing Reservoirs and Lakes Constructed by the Commission Or On Reservoirs and Lakes in Operation Under Agreement With a Federal or State Agency or Private Owners; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 26-104, Revised Codes of Montana, 1947, as amended by chapter 40, Session Laws of 1951, and chapter 157, Session Laws of 1955, and chapter 151, Session Laws of 1957, be, and the same is hereby amended by adding thereto a subsection, to be known as "subsection 26," to read as follows:

Powers and duties of State Fish and Game Commission to regulate recreational use of public reservoirs and lakes.

"(26) It shall have authority to promulgate and enforce rules and regulations governing recreational uses of public fishing reservoirs and lakes constructed by the commission or on reservoirs and lakes which it operates under agreement with a federal or state agency or private owner.

"Such rules shall be promulgated in the interest of public health, public safety and protection of property in regulating swimming, boating, water skiing, surf boarding, picnicking, camping, sanitation and use of firearms on such reservoirs or at designated areas along the shore of such reservoirs. These rules shall be subject to review and approval by the state board of health as to public health and sanitation before becoming effective. Copies of such rules shall show such endorsement."

Subject to review.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 97

An Act to Amend Section 3, Chapter 44, Laws of Montana, 1953, as Amended by Section 4, Chapter 270, Laws of Montana, 1955, Relating to Federal-State Agreements Under the Social Security Act, to Provide that the Effective Date of Such Agreements May Be Retroactive to the Extent Permitted by the Social Security Act; to Amend Section 4, Chapter 44, Laws of Montana, 1953, as Amended by Section 6, Chapter 270, Laws of Montana, 1955, Relating to Plans for Coverage of Employees of Political Subdivisions and Providing for the Exclusion of Such Services Under Such Plans; and to Amend Section 8, Chapter 44, Laws of Montana, 1953, as Amended by Section 10, Chapter 270, Laws of Montana, 1955, to Provide for the Removal of Teachers from Persons Excepted from the Act; and to Provide that Invalidity of a Part of This Act Shall Not Affect or Impair the Remainder, and to Provide that This Act Shall Become Effective Upon Its Passage and Approval and to Repeal All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 3, chapter 44, Laws of Montana, Thirty-third Session, 1953, as amended by section 4, chapter 270, Laws of Montana, Thirty-fourth Session, 1955, be, and the same is hereby amended to read as follows:

Federal-state agreement for extending benefits of Social Security Act to state employees.

"Section 4. **Federal-state agreement.** (a) The state agency, with the approval of the governor, is hereby authorized to enter on behalf of the state into an agreement with the secretary of health, education, and welfare, consistent with the terms and provisions of this act, for the purpose of extending the benefits of the federal old age and survivors' insurance system to employees of the state or any political subdivision thereof with respect to services specified in such agreement which constitute 'employment' as defined in section 2 (59-1102) of this act. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and secretary of health, education, and welfare shall agree upon, but, except as may be otherwise required or permitted by or under the social security act as to the services to be covered, such agreement shall provide in effect that:

Benefits.

(1) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of title II of the social security act;

Payment to treasury of the United States.

(2) The state will pay to the secretary of the treasury of the United States, at such time or times as may be prescribed under the social security act, contributions with respect to wages (as defined in section 2 (59-1102) of this act), equal to the sum of the taxes which would be imposed by the federal insurance contributions act if the services covered by the agreement constituted employment within the meaning of that act;

When effective.

(3) Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year in which such agreement is entered into or in which the modification of the agreement making it applicable to such services, is entered into, except that *such effective date may be made retroactive to the extent permitted by section 218 (f) of the social security act, as defined herein;*

Coverage of employees of state.

(4) All services which constitute employment as defined in section 2 (59-1102) and are performed in the employ of the state by employees of the state, shall be covered by the agreement; and

Coverage of employees of political subdivisions.

(5) All services which (A) constitute employment as defined in section 2 (59-1102), (B) are performed in the employ of a political subdivision of the state, and (C) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under section 6 (59-1104) shall be covered by the agreement."

Amending clause.

Section 2. That section 4, chapter 44, Laws of Montana, Thirty-third Session, 1953, as amended by section 6, chapter 270, Laws of Montana, Thirty-fourth Session, 1955, be, and the same is hereby amended to read as follows:

"Section 6. **Plans for coverage of employees of political subdivisions.** (a) Each political subdivision of the

Plans for coverage of employees of political subdivisions—requirements.

state shall submit for approval by the state agency a plan for extending the benefits of title II of the social security act, in conformity with applicable provisions of such act, to employees of such political subdivision. Each such plan and any amendment thereof shall be approved by the state agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless:

Social Security Act.

(1) it is in conformity with the requirements of the social security act and with the agreement entered into under section 4 (59-1103);

Services.

(2) it provides that all services which constitute employment as defined in section 2 (59-1102) and are performed in the employ of the political subdivisions by employees thereof, shall be covered by the plan, except that it may exclude services performed by individuals to whom section 218 *(c)* (3) (C) of the social security act is applicable;

Source of Funds.

(3) it specifies the source or sources from which the funds necessary to make the payments required by paragraph (1) of subsection (c) and by subsection (d) are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

Administration.

(4) it provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan;

Reports.

(5) it provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the secretary of health, education, and welfare may from time to time find necessary to assure the correctness and verification of such reports;

Termination.

(6) it authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations

of the state agency and may be consistent with the provisions of the social security act.

Notice and hearing.

"(b) The state agency shall not finally refuse to approve a plan submitted by a political subdivision under subsection (a), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

Time for payment.

"(c) (1) Each political subdivision as to which a plan has been approved under this section shall pay into the contribution fund, with respect to wages (as defined in section 2 (59-1102) of this act), at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under section 3 (59-1102.1).

Contribution by employee.

(2) Each political subdivision required to make payment under paragraph (1) of this subsection shall, in consideration of the employee's retention in, or entry upon, employment after enactment of this act, impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages (as defined in section 2 (59-1102) of this act), not exceeding the amount of the employee tax which would be imposed by the federal insurance contributions' act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of such political subdivision or instrumentality under paragraph (1) of this subsection. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

Remedy for delinquent payments.

"(d) Delinquent payments due under paragraph (1) of subsection (c) may, with interest at the rate of six per centum (6%) per annum, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor, or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department, agency or fund of the state."

Amending clause.

Section 3. That section 8, chapter 44, Laws of Montana, Thirty-third Session, 1953, as amended by Section 10, chapter 270, Laws of Montana, Thirty-fourth Session, 1955, be, and the same is hereby amended to read as follows:

Persons excepted from act.

"Section 10. **Persons excepted from act.** This act shall not apply to, and there shall be excluded from the operation thereof, all employees of the state and of the political subdivisions thereof operating under the provisions of any retirement plan for firemen, policemen or highway patrolmen."

Saving clause.

Section 4. If any clause, sentence, section, subsection, or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, inoperative, or unconstitutional, such decision shall not affect, impair, or invalidate the remaining portions of this act, but shall be confined in its operation to the clause, sentence, paragraph, section, subdivision, or part directly adjudged to be invalid, inoperative or unconstitutional.

Repealing clause.

Section 5. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1959.

CHAPTER 98

An Act to Amend Section 32-1603, Revised Codes of Montana, 1947, Relating to the Duties of the Highway Commission, Requiring the Commission to Submit to the Legislature and the Governor a Biennial Report of Its Activities, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-1603 of the Revised Codes of Montana of 1947, as amended, be, and the same is hereby amended to read as follows:

"32-1603. (1785) **Duties of commission — Reports.**

Duties of State Highway Commission.

The state highway commission shall maintain and preserve all its records in its office at the capitol; said office shall be kept open at such times as the business of the commission shall require. The commission shall file and safely keep a record of all proceedings and orders pertaining to the matters under its direction and copies of all plans, specifications, contracts, estimates and official acts. The commission shall prepare and submit to the governor on or before the fifteenth day of each month a report of the work constructed, under construction, and proposed for construction and the progress made during the preceding month, and shall make recommendations as to the needed improvements and their estimated cost. *The commission shall prepare and submit to the governor and the legislative assembly during its regular session, and not later than the fifth legislative day, a comprehensive-condensed report of the commission's activities for the preceding biennium. Such report shall include an accounting for all moneys received from federal or state sources; a review of projects undertaken and completed; a summary of maintenance work performed by the commission; statistical tables covering personnel changes, compensation and status; a review of right-of-way procurement experience, including condemnation proceedings and average price paid per acre of land in representative areas of the state, and all other matters which would assist the legislative assembly in determining the financial and legal requirements of the commission for the following biennium."*

Report to governor and legislative assembly.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 99

An Act to Amend Section 75-1630 Revised Codes of Montana, 1947, Relating to the Transfer of School Funds and Providing for An Increase in Tuition Rates for Children Attending Elementary Schools in School Districts Other Than the Districts of the Children's Residence and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1630, Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Conditions for permission to attend elementary schools outside district of residence.

"75-1630. (1013) **Transfer of funds.** Children may attend public elementary schools in districts in the county outside of the district in which they reside, or in a district in an adjoining county, or in a district in a county in another state when the district in such other state adjoins the district in which they reside, or is situated in a county in such other state, which county adjoins the State of Montana, when written permission is secured from the board of trustees of the district in which they are to attend school and when written permission has been given by the county superintendent of schools of the county in which the children reside. Permission must be granted for such attendance in another district within or without the county of such children's residence when the following conditions exist:

3 miles from school of residence.

"1. When a child lives less than three (3) miles from a public elementary school in another district or county and three (3) or more miles from a public elementary school in the district or county of his own residence.

No transportation.

"2. When a child resides more than three (3) miles distance from a public elementary school within his own district or county and no transportation is furnished by the home district or county to such school.

Transportation furnished.

"3. When regular bus transportation is furnished by a public elementary school in another district or county and his own district or county does not furnish transportation.

Measure of distance.

"Such distances mentioned above shall be measured from the point where the private family dwelling house is situated to the school house by the shortest traveled route.

High school students in same family.

"4. When a family has children who must attend high school outside of its own district or county and such family also has elementary school children who can more conveniently attend the elementary grades in the same district where the high school is located, provided such elementary children live more than three (3) miles from the home school or that a parent must move to town to provide high school education for his children.

Discretionary approval.

"5. When the county superintendent of schools of the county where the child resides, for any other reason than stated above shall approve the attendance of any child in a public elementary school in another county. In approving such attendance in another district or county, the county superintendent shall take in consideration such items as distance to school, road conditions, trading center of parents, opportunity to live with relatives, dormitory facilities, living conditions, transportation and type of educational program.

Tuition.

"When approval of attendance in another district within or without the county has been granted, the district in which such child resides shall pay to the school district where such child attends, an amount based on the following tuition rates: in the case of attendance at an elementary school with an average number belonging up to one hundred (100), the tuition to be paid shall be *two hundred twenty-five dollars ($225.00)*; where the school attended has an average number belonging between one hundred one (101) and three hundred (300), the tuition shall be *two hundred dollars ($200.00)*; and where the school attended has an average number belonging over three hundred (300), the tuition rate shall be *one hundred seventy-five dollars ($175.00)* per pupil.

Duty of school budget supervisors.

"It is hereby made the duty of the board of school budget supervisors in approving the budgets, to include therein an item to care for the above tuition, if this has not already been done by the board of trustees in preparing the budget for the district.

Application made to county superintendent.

"Applications for permission to attend a school outside the district or county shall be made to the county superintendent before July 1, previous to the year of attendance, excepting in those cases where circumstances prevent such application. These applications are to be approved or disapproved, except as otherwise provided by law, by the county suptrintendent, and by the trustees of the district the pupil wishes to attend.

Duty to transmit names.

''At the close of the school term of the year in which such pupil attends this school outside the district, the clerk of such district shall transmit to the county superintendent the names of pupils from other districts attending his school, together with the number of days attended. This information in turn shall be transmitted by the county superintendent to the districts affected and such district shall reimburse the school attended for all pupils of its district; provided such pupil has attended at least forty (40) days. This amount of reimbursement shall be made an item of the budget for the coming year and reimbursement shall be made to the district of attendance out of the first funds available to the budget; provided, however, that the trustees of the district receiving pupils from another district may waive any or all tuition; provided, further, that the amount of this tuition shall not reduce the foundation program of the school paying it, but shall be an additional item added to it to be raised without a vote of the people; and provided further, that the district receiving the tuition may apply it against the needs of the budget after the regular district, county and state aid have been received.

Reimbursement.

Waiver.

Amount may be raised without vote.

''In the case of a district which does not operate a school, the amount of this tuition can be raised without a vote of the people if the five (5) mill district levy and other local revenue is insufficient to raise the amount needed.

Duty to determine eligibility.

''It shall be the responsibility of the superintendent of schools and the board of trustees of the public elementary school receiving the pupils and county superintendent of schools of the county of the pupils' residence to determine and agree upon eligibility of pupils transferring under the provisions of this act; provided, that an appeal may be taken to the state superintendent of public instruction.

Appeal.

Procedure for attendance in adjoining state.

''Whenever elementary pupils residing in Montana are approved for attendance in an elementary school in an adjoining state; and whenever elementary pupils in an adjoining state are approved for attendance in an elementary school in Montana, the above schedule of tuition payments may be waived and payments arrived at on a reciprocal basis with the state involved. The state superintendent of public instruction is hereby authorized to negotiate with the state superintendent of public instruction of each state involved in arriving at tuition payments, which may either be on a per pupil basis of a flat amount or on an actual cost basis.'' **Power to negotiate.**

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Approved March 2, 1959.

CHAPTER 100

An Act to Amend Section 53-108, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 146, Laws of Montana, 1957, Relating to Renewal of Registration; by Providing That Vehicles May Be Operated Between January First and February Fifteenth Without Displaying the Current Registration Certificates; by Providing Temporary Windshield Stickers for Owners of Used Vehicles Whose Registration Certificates Are Being Processed Through the Office of the Registrar of Motor Vehicles; by Prohibiting the Sale or Purchase of More Than One (1) Temporary Windshield Sticker When Vehicle's Ownership Not Changed; by Providing a Three (3) Day Grace Period for Purchasers of New Motor Vehicles in Which to Make Application for Registration; by Providing It Shall Not Be a Violation of Any Law to Operate Such New Motor Vehicle on the Streets and Highways During Said Three (3) Day Period, If Such Purchaser Has in His Possession Satisfactory Evidence of Ownership; by Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 53-108, Revised Codes of Montana, 1947, as amended by Section 1, Chapter 146, Laws of Montana, 1957, be, and the same is hereby amended to read as follows: **Amending clause.**

''53-108. (1758.1) **Renewal of Registration.** Every vehicle registration under this act shall expire on Decem-

Vehicle registration expires December 31 of each year—renewed annually.

ber thirty-first of each year and shall be renewed annually upon application and payment of license fees, as provided in sections 53-114, Revised Codes of Montana, 1947, as amended by section 1, chapter 256, Laws of 1955, and 53-112 (53-122), Revised Codes of Montana, 1947, as amended by section 1, chapter 41, Laws of 1955, such renewal to take effect on the first day of January of each year. The certificate of registration issued hereunder shall be valid during the registration year only for which issued, and the certificates of ownership shall remain valid until cancelled by the registrar of motor vehicles upon a transfer of any interest shown therein and need not be renewed annually. Upon annual renewal, whenever the legal owner of the vehicle is other than the registered owner, the registrar of motor vehicles shall immediately notify such legal owner by mail of the registration number assigned to such vehicle for the ensuing year.

Certificates of ownership valid until cancelled by registrar.

Notice to legal owner.

Grace period for renewal registration.

"The owner of a vehicle registered under the provisions of this act shall be entitled to operate such vehicle between January first and February fifteenth without displaying the registration certificate of the current year, on condition that such owner shall, during said period, display upon such vehicle the number plates or plate assigned thereto for the previous year.

Vehicles transferred, stickers pending receipt of plates.

"Any purchaser of a motor vehicle from a duly licensed motor vehicle dealer which has not been registered or reregistered for the current year may during the time of (the) certificate of ownership thereto is in the process of being transferred in the office of the registrar of motor vehicles, upon making an affidavit to that effect upon a form prescribed by the registrar of motor vehicles and upon the payment of a fee of one dollar ($1.00) to be collected by the county treasurer and remitted to the board, obtain from the county treasurer of the county in which said vehicle is subject to tax a temporary windshield sticker of such size, color and design as the board may prescribe, to be validated by the county treasurer for a period of thirty (30) days from the date of issuance, and such purchaser, upon displaying such sticker on the lower right-hand corner of the windshield of such motor vehicle and upon displaying the number plates or plate assigned thereto for the previous year, (unless the seller has been unable to deliver such previous year's plate or

Fee and procedure.

plates) shall be entitled to operate such vehicle during the period for which such windshield sticker has been validated without displaying the registration certificate or number plates or plate for the current year. *Provided, however, the county treasurer shall not sell, or no person shall purchase more than one (1) thirty (30) day temporary windshield sticker for any vehicle, the ownership of which has not changed since the issuance of the previous thirty (30) day windshield sticker.* Provided, *further,* however, that any purchaser of a new motor vehicle from a duly licensed motor vehicle dealer shall have the grace period of three (3) days from the date of purchase to make such *application for registration and obtain registration plates,* and it shall not be a violation of this chapter or any other law for such purchaser to operate such new motor vehicle upon the streets and highways of this state without *a certificate of registration and registration plates* during the said three-day period; providing further that such purchaser must have in his possession a valid bill of sale or other satisfactory evidence of ownership."

Proviso—no more than one 30 day sticker unless ownership changed.

Proviso—purchaser of new motor vehicle 3 days grace period.

Evidence of ownership required.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 2, 1959.

CHAPTER 101

An Act to Repeal Sections 53-123 to 53-128, Inclusive, Revised Codes of Montana, 1947, Relating to Issuance of a License to Owners of Foreign-Licensed Vehicles Who Are in Montana as Tourists or for Recreational Travel Only and Relating to the Enforcement of Such Provisions.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Sections 53-123 to 53-128, inclusive, Revised Codes of Montana, 1947, be, and the same are hereby repealed.

Repealing clause.

Approved March 2, 1959.

CHAPTER 102

An Act to Repeal Section 31-111, Revised Codes of Montana, 1947, Relating to Drivers Procuring Driver's License—Fees—Who Can Purchase.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That Section 31-111, Revised Codes of Montana, 1947, be, and the same is hereby repealed.

Approved March 2, 1959.

CHAPTER 103

An Act to Amend Section 53-617, Revised Codes of Montana, 1947, Relating to Sales Tax on New Passenger Vehicles; Providing That the State Highway Commission May Use Any Available Price List If the Manufacturer or Importer Fails to Furnish a Price List; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 53-617, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Motor vehicle sales tax on new motor vehicles effective January 1, 1952.

"53-617. **Sales tax on new passenger vehicles.** In consideration of the right to use the highways of the state of Montana, and from and after January 1, 1952, there shall be imposed upon all new passenger motor vehicles for which a license is sought, and which have not been otherwise assessed and not subject to assessment and taxation in Montana, a motor vehicle sales tax, as follows:

Method of Computing

One and one-half percent (1½%) of the F. O. B. factory list price or *F. O. B. port of entry list price* of the automobile, during the first quarter of the year; one and one-eighth percent (1⅛%) of said list price during the second quarter of the year and three-fourths (¾) of one percent (1%) during the third quarter of the year, and three-eighths (⅜) of one percent (1%) during the fourth quarter of the year, this assessment to be made when the owner applies for his original Montana license through his county treasurer. *Provided however, that in case the manufacturer or importer fails to furnish the F. O. B. factory list price or F. O. B. port of entry list price the state highway commission is authorized to use such published price lists as may be available.* The proceeds from this tax should be remitted to the state treasurer every thirty (30) days for credit of the state highway fund."

Use of published price lists.

Remittance of proceeds.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 2, 1959.

CHAPTER 104

An Act to Amend Section 71-1207, Revised Codes of Montana, 1947, Replacement Volume Four (4), Relating to the Investigation of Applications from Permanently and Totally Disabled Persons by the County Welfare Department; Providing That Old Age Recipients Who Are Enrolled Members of the Recognized Indian Tribes May Receive Not to Exceed One Hundred Dollars ($100.00) in Any One (1) Calendar Year as Per Capita Payment from Tribal Lands or Tribal Profits, Without Affecting the Amount of Their Assistance; Providing for a Repealing Clause; and Providing for an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 71-1207, Revised Codes of Montana, 1947, Replacement Volume Four (4), be, and the same is hereby amended to read as follows:

Amending clause.

"71-1207. **Investigation of Applications.** Whenever the county department receives an application for aid to the permanently and totally disabled an investigation shall be promptly made. The investigation of each application for aid to the permanently and totally disabled shall be conducted by a staff worker of the county department. Each applicant shall be informed of his right to a fair hearing and of the confidential nature of information

Procedure for investigation of applications for aid to disabled persons.

Hearing.

secured with regard to his circumstances. Upon completion of such investigation, the staff of the county welfare department shall determine whether the applicant is eligible for and should receive a grant and the amount of the assistance. Review. The county public welfare board shall review the determination made by the staff of the county department. Aid shall be furnished promptly to all eligible persons. Notice of decision. Each applicant shall receive written notice of the decision concerning his application, Proviso—aid to enrolled member of Indian tribe. *providing, however, when federal law or regulations permit that any amount in a sum not exceeding one hundred dollars ($100.00) in any one (1) calendar year received by an enrolled member of a recognized Indian tribe as per capita payments or a share in the profits and receipts from tribal lands and interests or tribal enterprises shall not be used to decrease the amount of assistance received under this act.*"

Repealing clause. Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately. Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1959.

CHAPTER 105

An Act to Amend Section 71-410 of the Revised Codes of Montana, 1947, to Provide That Old Age Recipients Who are Enrolled Members of Recognized Indian Tribes May Receive Not to Exceed One Hundred Dollars ($100.00) in Any One (1) Calendar Year, as Per Capita Payments from Tribal Lands or Tribal Profits, Without Affecting the Amount of Their Old Age Assistance and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That Section 71-410 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"Section 71-410. **Subsequent increase of income.** If, at any time during the continuance of old age assistance, the recipient thereof or the husband or wife (if living together) of the recipient, becomes possessed of any property or income in excess of the amount enjoyed at the time of the granting of the assistance, it shall be the duty of the recipient immediately to notify the county department of the receipt and possession of such property or income, and the county board may, on inquiry, either cancel the assistance or vary the amount thereof in accordance with circumstances, any excess assistance heretofore paid shall be returned to the state and the county in proportion to the amount of the assistance paid by each respectively, and be recoverable as a debt due the state and the county. *Provided however, when federal law or regulations permit that any amounts in a sum not exceeding one hundred dollars ($100.00) in any one (1) calendar year received by an enrolled member of a recognized Indian tribe as per capita payments or a share in the profits and receipts from tribal lands and interests or tribal enterprises shall not be deemed to be additional property or income under this section.*

Duty of recipient of old age assistance to report increased income.

Proviso—enrolled member of Indian tribe.

"If the federal law so requires, the federal government shall be entitled to a share of any amounts collected from recipients or their estates in proportion to the amount which it has contributed to the grants recovered, and the amount due the United States shall be promptly paid by the state to the United States government. The remaining portion of the amount collected shall be distributed to the state and county in proportion to the total amount paid by each."

Share of federal government.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 2, 1959.

CHAPTER 106

An Act to Amend Section 26-202.3 of the Revised Codes of Montana, 1947, Relating to the Definition of "Resident" for the Purpose of Issuing Resident Fishing and Hunting Licenses to Members of the Armed Forces of the United States and Their Spouses Who Are Assigned to Duty in Montana, After a Period of Thirty (30) Days Within Montana, Shall be Considered as a Resident; Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 26-202.3 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Resident defined for purpose of issuing resident fishing and hunting licenses.

"26-202.3. **Defining Resident.** That in determining a resident for the purpose of issuing resident fishing and hunting licenses, the following provisions shall apply:

Military personnel.

"(1) That members of the armed forces of the United States, *and their spouses,* who are assigned to duty in Montana, and after a period of thirty (30) days within Montana, upon presenting assignment orders emanating from the proper unit commander, shall be considered residents for the purpose of this act. The thirty (30) day residence requirement is waived in time of war.

Citizen of the United States.

"(2) Any citizen of the United States of America who has continuously resided within the state of Montana for a period of six (6) months immediately prior to making application for said license, and who is a legal resident of the state, shall be eligible to receive a resident hunting or fishing license.

Noncitizen with first papers.

"(3) Any person in possession of first citizenship papers only shall not be considered a resident citizen of Montana, but such a person may purchase nonresident licenses."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 107

An Act to Amend Section 11-1912, Revised Codes of Montana, 1947, Relating to Disability and Pension Funds of Fire Department Relief Associations and the Tax

Levy for Maintaining Same; and Providing a Maximum Levy for Such Provisions by Cities in the Third Class; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-1912, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Tax levy for purpose of maintaining funds for fire department relief association.

"11-1912. **Tax levy for fund.** For the purpose of maintaining said disability and pension funds of such fire department relief association, in an amount equal to one per centum (1%) of the taxable valuation of all taxable property within the limits of any city, town or municipality, the city or town council or the commission or such other proper authority of any municipality, as is now or may hereafter be established, under special or local laws passed by the legislative assembly and adopted by the electors within such city, town or municipality, entitled to vote thereon, at all times when the said relief association fund is in a total amount of less than one per centum (1%) of the taxable valuation of all taxable property within the limits of the city, town or municipality, shall, annually, in the manner provided by law, at the time of the levy of the annual tax, levy a special tax as herein below set forth, which said special tax shall be collected as other taxes are collected and when so collected shall be paid into the disability and pension fund of the fire department relief association of said city, town or municipality:

Special tax levy.

1. Whenever the total amount of a fire department relief association's fund is less than one per centum (1%) of the taxable valuation of all taxable property within the limits of the city, town or municipality, the special tax levy shall be *two (2)* mills on each dollar of taxable valuation of all property assessed for taxes within the limits of the said city, town or municipality; provided, however, if the assessment of a *two (2) mill* tax levy in any one year will create a revenue as will cause said fire department relief association's disability and pension fund to exceed one per centum (1%) of the taxable valuation of all taxable property in said city, town or municipality, then, in that event, and not otherwise, the mill tax levy

shall be such fractional part of *two (2)* mills as will produce a sufficient amount of revenue as will bring the total amount of the said fire department relief association's disability and pension fund to an amount equal to one per centum (1%) of the taxable valuation of all taxable property in said city, town or municipality.

In cities of third class. 2. In cities of the third class, when the fire department relief association's disability and pension fund contains an amount of less than two per centum (2%) of all taxable property within the city limits of the city, town or municipality, the city council may levy an annual special tax not to exceed two (2) mills on the dollar of all taxable valuation of all taxable property assessed within the said city, town or municipality."

Repealing clause. Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 108

An Act to Amend Section 75-5003, Revised Codes of Montana, 1947, as Amended by Chapter 206, Laws of 1955, Relating to the Establishment of Special Education Programs by Local Boards of Trustees; the Providing of Transportation Services for All Handicapped Children; the Determination of Children Requiring Special Education; the Responsibility of the State Superintendent of Public Instruction; and Reimbursement by the State for Special Programs; to Provide for Transportation Services from Home to School and Return for All Handicapped Children Enrolled in a State-Approved Special Education Program; to Reimburse State-Approved Special Education Classes for Educable Mentally Retarded Children on the Basis of Counting Each Pupil as Three in Average Number Belonging; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That section 75-5003, Revised Codes of Montana, 1947, as amended by chapter 206, Laws of

1955, be, and the same is hereby amended to read as follows:

Procedure for education of mentally retarded or physically handicapped children.

"75-5003. **Local boards of trustees — powers — determination of children requiring special education and the type of education responsibility of state superintendent — reimbursement by state — computation.** The board of trustees in each school district may maintain special classes for educable mentally *retarded* children or for physically handicapped children, or may arrange to use the services of such approved crippled children's classes as may exist within the state, or may provide transportation services from home to school and return for *all* handicapped children *enrolled in a state approved special education program* of such ages as it deems wise; provided, that the local board has the right to exclude persons of low intelligence or severe delinquent behavior. The determination of the children requiring special education and the type of special education needed by these handicapped children shall not be the responsibility of local boards of trustees but shall be the responsibility of the state superintendent of public instruction in cooperation with appropriate medical, psychiatric and psychological advice listed above. Two (2) or more districts may combine to provide such educational facilities.

Responsibility of state superintendent of public instruction.

Method of computing reimbursements.

Reimbursements on the part of the state for such programs shall be computed on the basis of counting each such mentally *retarded* child in such special classes as *three (3)* in average number belonging, and each physically handicapped child according to a schedule to be prepared by the state superintendent of public instruction, but in no case shall it be over three (3) average number belonging for each such child, prorated according to time and number in these special classes, or in home tutoring. Transportation reimbursements shall be made on a schedule arrived at by the state superintendent of public instruction, and such expenditures shall be added to the transportation budget of the district. The state shall reimburse two-thirds of such approved transportation.

Transfer of funds.

Children sent to the crippled children classes in any other approved program within the state shall be counted on the rolls of the home district and the home district shall transfer the funds for each such child to the school district in which these classes are located according to prescribed schedules provided, however, that when children are sent to an institution supported by funds of the state of Montana the home district will not be required to transfer funds for such child."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 109

An Act to Amend Section 31-105, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 225, Laws of Montana, 1957, Relating to Qualifications of Patrolmen—Salary—Probationary Training—Discharge—Demotion—Suspension—Hearing; by Increasing the Number of Patrol Captains from Five (5) to Six (6); by Increasing the Salary Schedules of Captains, Sergeants, Patrolmen and Probationary Patrolmen When Such Patrolmen Work a Forty-eight (48) Hour Week; by Reducing Residence Requirements for Patrolmen from Five (5) Years to Three (3) Years; by Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-105, Revised Codes of Montana, 1947, as amended by section 1, chapter 225, laws of Montana, 1957, be, and the same is hereby amended to read as follows:

Board to designate captains, sergeants, patrolmen.

"31-105. **Qualifications of patrolmen—salary—probationary training — discharge — demotion — suspension—hearing.** The board shall designate captains, not to exceed *six (6)* in number, sergeants, and patrolmen in such numbers as the board may deem necessary. Said patrolmen shall be chosen in equal numbers in the twelve (12) highway districts, provided however, that if sufficient qualified applications are not received from any one district that the board may in its discretion substitute other qualified applicants from any other districts. Replacements and additions to the force shall be selected in the same manner. The salary of the captains, sergeants and patrolmen shall be fixed by the board, with the approval of the state board of examiners, provided that the base salary for captains shall be four hundred twenty-five dollars ($425) per month, the base salary for sergeants shall be four hundred dollars ($400) per month, the base salary for patrolmen shall be three hundred seventy-five dollars ($375) per month, the base salary for probationary patrolmen shall be three hundred dollars ($300) per month. In the event that said probationary patrolman is appointed permanently, he shall, at the time of such appointment, receive the base salary of patrolmen. These salaries shall be increased one per cent (1%) per year for each additional year of service. Captains and sergeants shall be selected from the patrolmen by the supervisor, subject to the approval of the highway patrol board. The duties and jurisdiction of the captains and sergeants shall be outlined, defined and under the control of the supervisor, subject to the approval of the Montana highway patrol board. *Provided, however, that when patrolmen work a forty-eight (48) hour week the base salaries shall be as follows: Captains, four hundred seventy-five dollars ($475) per month: Sergeants, four hundred fifty dollars ($450) per month: Patrolmen, four hundred twenty-five dollars ($425) per month: Probationary patrolmen, three hundred fifty dollars ($350) per month.*

Base salary for captains.

Base salary for sergeants.

Base salary for patrolmen.

Base salary for probationers.

Salary increase.

Proviso—base salaries for 48 hour week.

(a) Patrolmen shall possess the following qualifications: Qualifications.

(1). Sound and active physical and mental condition. Physical.

(2). Good moral character. Moral.

(3). Resident of Montana for at least *three (3)* years last past. Resident three years.

(4). Pass a satisfactory test in the operation of automobiles. Motor vehicle operation test.

(5). Not over fifty-five per cent (55%) of the patrol shall belong to one political party. Political.

(6). Citizens of the United States and state of Montana. Citizens.

Supervisor, captains, sergeants, patrolmen all deemed patrolmen.

''For the purpose of this act, the supervisor, captains, sergeants and patrolmen shall be deemed patrolmen. The Montana highway patrol board shall prepare a schedule of compensation and expenses for all patrolmen and submit it to the state board of examiners for their approval, in conformity with this act. All patrolmen shall be placed under probationary training and service for a period of six (6) months to one (1) year, during which time the highway patrol supervisor must recommend to the highway patrol board for permanent appointments or the patrolmen will automatically be dismissed. All captains and sergeants shall be placed under probationary training and service for a period of six (6) months to one (1) year, during which time the highway patrol supervisor must recommend to the highway patrol board for permanent appointments or the captains and sergeants will automatically revert to their previous ranks without prejudice. Patrolmen filling vacancies caused by the incumbents' entrance into the armed forces of the United States, shall, on the return of the incumbents be placed in the patrol reserve, without pay; otherwise they shall hold their permanent appointments while there are sufficient operating funds. Reserve patrolmen shall then be used for future replacements in the permanent patrol.

Probationary training.

Vacancies due to entry into armed forces.

Tenure of employment.

''Every person employed or appointed and designated as a supervisor, captain, sergeant, or patrolman under and pursuant to the provisions of this act, except as above provided, shall continue in service and hold his position without demotion until suspended, demoted, or discharged in the manner hereinafter provided, for one or more of the causes specified in the following paragraph.

Causes for suspension, demotion, discharge.

(b) Cause for suspension, demotion, or discharge will be:

(1). Conviction of any crime involving moral turpitude in any court of competent jurisdiction subsequent to the commencement of such employment.

(2). Gross neglect of duty or willful violation or disobedience of orders or regulations.

(3). Loitering about or entering places of ill fame, ill repute, or where gambling is known to be conducted or to be in progress, except in the immediate discharge of duty.

(4). Conduct unbecoming an officer.

(5). Drinking intoxicating liquor while using state-owned cars or in uniform, or being intoxicated in a public place.

(6). Sleeping while on duty.

(7). Incapacity, or partial incapacity, materially affecting his ability to perform his official duties.

(8). Gross inefficiency in performing duties.

(9). Active participation in any political campaign by supporting or opposing, directly or indirectly, any political candidate, or contributing financially or otherwise, directly or indirectly, to the success or defeat of any political party or candidate.

(10). Willful disobedience of rules and regulations adopted by the board, governing the conduct and discipline of members of the patrol.

Procedure for filing charges.

"The charge or charges against any such employee shall be made in writing and shall be signed and sworn to by the person making the same, which written charge or charges shall be filed with the supervisor of the Montana highway patrol. Any charges involving suspension or dismissal of the supervisor or a captain shall be filed directly with the highway patrol board.

Hearing.

"Upon the filing of the same, if the supervisor, in his opinion, believes that such charges constitute grounds for discharge, he shall order a hearing to be had thereon before the highway patrol board and fix a time for such hearing, otherwise he shall dismiss such charges.

Notice.

(c) At least ten (10) days before the time appointed for said hearing, written notice specifying the charge or charges filed and stating the name of the person or persons making the charge or charges shall be served on the said employee personally, if his whereabouts is known, in the State of Montana. If at the time, the whereabouts of the said employee is unknown, or if he be outside of the State of Montana, service may be made upon him by mailing the said written notice to him at his last known place of residence in Montana.

Suspension.

"If the supervisor orders a hearing he may suspend such employee pending the rendition of the decision made in such case.

Board to hear charges.

"The highway patrol board shall be the authority to hear such charge or charges and render a decision and appropriate order.

Power to subpoena.

"The highway patrol board shall have the power to compel the attendance of witnesses at any such hearing and to examine them under oath and to require the production of books, papers, and other evidence at such hearing and for that purpose issue subpoenas and cause the same to be served and executed in any part of the state.

Employee's rights.

"The employee accused shall be entitled to be confronted with the witnesses against him and have an opportunity to cross-examine the same and to introduce at such hearing testimony in his own behalf and shall be entitled to be represented by counsel at such hearing. The highway patrol board shall within fifteen (15) days after such hearing render its decision in writing and file same in its office with the supervisor and with the employee accused also.

Board may penalize.

"If, after such hearing, the highway patrol board finds that any such charge or charges made against the employee are true, it may punish the offending party by reprimand, suspension without pay, demotion, or dismissal.

Appeal.

(d) Any employee who is so suspended, demoted, or dismissed may have a right of appeal to the district court of Lewis and Clark county, within ten (10) days after such decision or determination of the highway patrol board, and said court shall review such decision or determination in a summary manner and shall render its decision upon such appeal within ninety (90) days from the filing of such appeal in said court. If such decision or determination of the highway patrol board shall be finally reversed or modified by said court, the said employee shall be reinstated in his position and the highway patrol board shall pay to the said employee any salary or wages withheld from him pending the determination of the charge or charges, or as may be directed by the court.

"The highway patrol board shall have the authority to order the supervisor to file charges with the board if the supervisor in his judgment does not believe the charge or charges warrant a hearing.

Board may order charge filed.

"When the highway patrol supervisor has cause to believe that any member of the highway patrol has violated any of the hereinabove specified grounds for suspension, demotion or discharge, or his conduct has warranted reprimanding, he may, with the approval of the Montana highway patrol board, suspend, demote or reprimand the member. Suspension shall be without pay and for a period not to exceed twenty (20) days in time. In cases of demotion, the member shall receive the pay of the classification to which he is demoted."

Disciplinary power of supervisor—board approval required.

Limitation.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 2, 1959.

CHAPTER 110

An Act to Amend Section 4-349 of the Revised Codes of Montana of 1947, as Last Amended by Chapter 51 of the Laws of 1955, Prohibiting Brewers and Beer Wholesalers from Supplying Certain Fixtures and Materials to Retailers and Prohibiting Brewers and Wholesalers from Having a Financial Interest in the Business of a Retailer, by Clarifying Section Three to Specify Types of "Financial Interest" which Are Prohibited; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 4-349, of the Revised Codes of Montana, 1947, as amended by chapter 51 of the laws of 1955, be, and the same is hereby amended to read as follows:

Amending clause.

"4-349. **Brewers and wholesalers not to supply fixtures, etc., to retailers, except as specified — brewers not to be interested in retailer financially.** (a) It shall be

Brewers and wholesalers not to supply fixtures, etc., to retail licensee.

unlawful for any brewer or wholesaler to lease, furnish, give or pay for any premises, furniture, fixtures, equipment, signs, or any other advertising matter or any other property to any retail licensee, used or to be used in the dispensation of beer in and about the interior or exterior of the place of business of any licensed retailer or furnish, give or pay for any repairs, improvements, painting or decorating on or within such premises; provided, however, that it shall be lawful for a brewer or wholesaler to furnish, give or loan to a retail licensee:

Exceptions.

1. Bottle openers, can openers and trays, with or without advertising matter thereon;

Advertising matter.

2. Advertising matter or novelties, of a value of not to exceed fifteen dollars ($15.00) in any calendar year, to any one (1) retailer for display use on the interior of said retailer's place of business; and

Illuminated signs.

3. Not more than two (2) illuminated or electrical signs, each of not more than three hundred (300) square inches in area, and both not in excess of fifty dollars ($50.00) in value, exclusive of installation charges, which signs may bear the name, brand name, trade name, trademark or other designation indicating the name of the manufacturer, and the place of manufacture, of beer, for display by the retail licensee on and within the interior of his place of business, or in the windows inside the place of business of the licensed retailer, and only if the particular brand of beer so advertised on such signs is actually available for sale on the licensee's premises, at the time of such display.

Advance or loan of money forbidden.

(b) No brewer or wholesaler shall advance or loan money to, or furnish money for, or pay for on behalf of any retailer, for any license or tax which may be required to be paid for any retailer, and no brewer or wholesaler shall be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer, as herein defined. *A brewer or wholesaler shall be deemed to have such a financial interest within the meaning of this section if (1) such brewer or wholesaler owns or holds any interest in, or a lien or mortgage against the retailer or his premises; or (2) if such brewer or wholesaler is under any contract with a retailer concerning future purchases and/or sale of merchandise by one from, or to the other; (3) if any retailer holds an in-*

Financial interest defined.

terest as a stockholder, or otherwise, in the business of the wholesaler.

7 day cash sale required.

(c) No sale or delivery of beer shall be made to any retail licensee, except for cash paid within seven (7) days after the delivery thereof, and in no event shall any brewer or wholesaler extend more than seven (7) days' credit on account of such beer to a retail licensee, nor shall any retail licensee accept or receive delivery of such beer without agreement to pay in cash therefor within seven (7) days from delivery thereof. A correctly dated check which is honored upon presentment shall be considered as cash within the meaning of this act. Any extension or acceptance of credit in violation hereof shall be regarded and construed as rendering or receiving financial assistance, and the licenses of both brewers, wholesalers and retail licensees involved in violation hereof shall be suspended or revoked, as determined by the board in its discretion.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 111

An Act to Amend Section 11-2402, Revised Codes of Montana, 1947, as Last Amended by Chapter 42, Montana Session Laws of 1949, Relating to Definitions of Authority of Municipalities Under Municipal Revenue Bond Act of 1939; Providing Authority to Issue Revenue Bonds for Authorized Municipal Purposes; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-2402, Revised Codes of Montana, 1947 as last amended by chapter 42, Montana session laws of 1949, be, and the same is hereby amended to read as follows:

''11-2402. **Definitions.** Whenever used in this act, unless a different meaning clearly appears from the context:

"Undertaking" defined.

(a) The term 'undertaking' shall mean any one or a combination of the following: water, and sewerage systems, together with all parts thereof and appurtenances thereto including, but not limited to, supply and distribution systems, reservoirs, dams, sewage treatment, disposal works, public airport construction and public airport building; *or other revenue producing facilities and services authorized in these codes for cities and towns.*

"Municipality" defined.

(b) The term 'municipality' shall include any city or any town, however organized.

"Governing body" defined.

(c) The term 'governing body' shall include bodies and boards, by whatsoever names they may be known, having charge of finances and management of a municipality."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 112

An Act to Amend Section 46-1005, Revised Codes of Montana, 1947, Relating to the Definition of "Estray" in the Livestock Law; Eliminating the Phrase "Over One Year Old" Qualifying Calf and Colt; Repealing Conflicting Acts; Providing Effective date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 46-1005, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"Estray" defined.

"46-1005. (3337) **'Estray,' as herein used, defined.** An estray within the meaning of this act shall be any horse, mule, mare, gelding, colt, cow, ox, bull, stag, steer, heifer, or calf, not bearing a brand and the ownership of which cannot be determined by the stock inspector of the district wherein such animal may be found, by inquiry among reputable resident stock owners or freeholders therein; or any of such animals bearing a recorded brand but the owner of which brand cannot be located at or through the post office designated upon the records of the recorder of marks and brands, or which owner cannot be located by the stock inspector of the district where such estray is found by inquiry among reputable resident stock owners or freeholders therein; or any of the animals above enumerated which bears an unrecorded brand, the owner of which unrecorded brand cannot be ascertained by the stock inspector of the district wherein said animal is found, by inquiry among reputable resident stock owners or freeholders therein."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1959.

CHAPTER 113

An Act to Amend Section 32-21-147 of the Revised Codes of Montana, 1947, Relating to Mirrors on Motor Vehicles by Requiring All Vehicles to be Equipped with Rear View Mirrors; by Repealing All Acts or Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-21-147 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Rear view mirrors on motor vehicles.

"32-21-147. **Mirrors.** *On and after January 1, 1960,* every motor vehicle, shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred (200) feet to the rear of such motor vehicle."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 114

An Act to Amend Section 5-909, Revised Codes of Montana, 1947, Relating to Payments by Building and Loan Associations Under Supervision of the Superintendent of Banks, and Fixing Schedule for Fees; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 5-909, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Fees to be paid by building and loan associations based on assets.

"5-909. **Payments by building and loan associations.** For the credit of said fund, each building and loan association under the supervision of the superintendent of banks, shall pay to the state treasurer, on or before the first day of July of each year, a fee based upon the total assets of such association as shown by its last annual statement and upon the following rates:

"The minimum fee to be paid by any building and loan association shall be the sum of one hundred dollars ($100);

"For the first five million dollars ($5,000,000) of assets, a charge of fifteen cents (15¢) for each one thousand dollars ($1,000) of assets shall be made;

"For the second five million dollars ($5,000,000) of assets, a charge of ten cents (10¢) for each one thousand dollars ($1,000) of assets shall be made;

"For assets in excess of ten million dollars ($10,000,000) but not exceeding twenty million dollars ($20,000,000), a charge of five cents (5¢) for each one thousand dollars ($1,000) of assets shall be made;

"For assets in excess of twenty million dollars ($20,000,000) but not exceeding thirty million dollars ($30,000,000), a charge of three cents (3¢) for each one thousand dollars ($1,000) of assets shall be made;

"For all assets in excess of thirty million dollars ($30,-

000,000) a charge of two cents (2¢) for each one thousand dollars ($1,000) of assets shall be made.''

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Approved March 2, 1959.

CHAPTER 115

An Act to Amend Section 14-106, Revised Codes of the State of Montana, 1947, Relating to Supervision of Credit Unions by State Examiner, Fee for Examinations, Providing for Forty-five Dollars ($45.00) Per Day Fee and Deleting Requirement to Pay Transportation and Per Diem; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 14-106, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: **Amending clause.**

''14-106. **Supervision of credit unions by state examiner—Fee for examinations.** Credit unions shall be under the supervision of the state examiner of the state of Montana. They shall report to him at least semiannually on or before June thirtieth (30th) and December thirty-first (31st) of each year. The state examiner shall examine all credit unions doing business in this state at least once a year. Also, whenever ten per centum (10%) of the subscribed stock of any credit union files a written application with said state examiner requesting him to make a special examination of said credit union he shall forthwith examine the same, and the findings of the examiner to be available to the petitioners and the board of directors of the credit union notwithstanding any other provisions of law. **Supervision of credit unions.** **Report.** **Examination at least once a year.**

"For each examination of a credit union by the state examiner, the association examined shall pay to the state treasurer a fee at the rate of *forty-five dollars* **Fee for examination.**

($45.00) a day for each person engaged in the examination."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1959.

CHAPTER 116

An Act to Amend Section 16-2903, Revised Codes of Montana, 1947, Relating to Recordation of Instruments by County Clerks and Recorders; to Permit the County Clerks and Recorders to Preserve Records by Use of Microfilm.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-2903 of the Revised Codes of Montana, 1947, be, and the same is hereby amended as follows:

Recordation of certain instruments declared proper.

"16-2903 (4797) **Recordation of certain instruments declared proper.** All instruments which have heretofore been filed for record in the several recorders' offices of the State of Montana, including all instruments which were offered for record pursuant to the previous section, which have been recorded in the offices of the recorders of the several counties by being correctly copied, separately, in large and well-bound, or to be bound, separate books, either in fair hand or by printing or by typewriting, or by the use of prepared blank forms, or by being so inscribed or printed on a single loose-leaf or leaves of a book, which leaf or leaves have heretofore or are to become a permanent part of any such book or volume, which, when completed, has or shall have the pages thereof securely locked, sealed, or bound into the volume, shall be and are hereby declared to be properly recorded under the laws of the State of Montana.

Proper recordation may be made with microfilm.

"All instruments included in Section 1 above, may be recorded and preserved by use of microfilm in lieu of handwriting, typewriting, or printing, and the same shall

be and are hereby declared to be properly recorded under the laws of the State of Montana.

Approved March 4, 1959.

CHAPTER 117

An Act to Provide for the Recordation of Instruments by Photostatic, Microphotographic or Microfilm; to Provide for the Disposal of Original Recorded Instruments When Reproductions Are Substituted Therefor; to Provide for Copies of Destroyed or Disposed of Originals Being Admissible as Evidence in Courts and Proceedings; to Provide for Identification, Indexing and Safekeeping of Copies of Instruments and to Provide for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Authorizing use of mechanical process for reproduction of documents.

Section 1. Whenever any officer of any county is required or authorized by law to record, copy, file, recopy or replace any document, plat, paper, written instrument, or book, on file or of record in his office, he may do so by photostatic, microphotographic, microfilm, or other mechanical process which produces a clear, accurate, and permanent copy or reproduction of the original document, plat, paper, written instrument, or record, in accordance with standards not less than those now approved for permanent records by the National Bureau of Standards.

Destruction of original.

Section 2. Any such document, plat, paper, written instrument or book reproduced as provided in Section 1 of this act, the original of which is not less than ten (10) years old, can be disposed of or destroyed only upon order of the district or probate court having jurisdiction, and the reproductions substituted therefor as public records.

Admissible in evidence.

Section 3. The photostatic, microphotographic or microfilmed copy of any such record destroyed or disposed of as herein authorized, or a certified copy thereof, shall be admissible as evidence in any court or proceeding, and shall have the same force and effect as though the original

Duties of custodian.

record had been produced and proved. It shall be the duty of the custodian of such records to prepare enlarged typed or photographic copies of the records whenever their production is required by law.

Duplicate of reproduction in fireproof storage.

Section 4. Whenever any record or document is copied or reproduced by microphotographic or microfilm, or other mechanical process as herein provided it shall be made in duplicate, and the custodian thereof shall place one copy, the contents thereof being first duly identified and indexed, in a fireproof vault or fireproof storage place, and he shall retain the other copy in his office with suitable equipment for displaying such record by projection to not less than its original size or for preparing, for persons entitled thereto, to copies of the record.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1959.

CHAPTER 118

An Act to Amend Section 11-2010, Revised Codes of Montana, 1947, as Amended by Section 2 of Chapter 75 of the Montana Session Laws of 1953, Relating to Trustees of Fire Districts and the Appointment and Powers Thereof and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-2010, Revised Codes of Montana, 1947, as amended by section 2 of chapter 75 of the Montana Session Laws of 1953, relating to trustees of fire districts and the appointment and powers thereof, be and the same is hereby amended to read as follows:

Appointment of trustees of fire districts.

''11-2010. (5149) **Trustees of fire districts—Appointment—Powers.** (a) Whenever the board of county commissioners shall have established a fire district in any unincorporated territory, town or village, said commissioners shall appoint five (5) qualified trustees to govern and manage the affairs of the fire district, who shall hold office until their successors are elected and qualified, as hereinafter provided. Qualifications of electors and trustees, terms of office, vacancies, manner and date of elections, shall, as far as possible, be the same as provided in the school election laws for school districts of the second class; except, that only electors who are taxpayers affected by the special fire district levies may vote at such elections, and be qualified to serve as trustees; and except, also, there need be no special registration of electors.

Powers of trustees.

"(b) Power of Trustee. The trustees shall organize by choosing a chairman, and appointing one member to act as secretary. They shall prepare and adopt suitable by-laws; appoint and form fire companies that shall have the same duties, exemptions, and privileges as other fire companies. The trustees shall have the authority to provide adequate and standard fire-fighting apparatus, equipment, housing and facilities for the protection of the district; and shall prepare annual budgets and request special levies therefor. The budget laws relating to county budgets, shall, as far as applicable, apply to fire districts.

Authority to contract for fire protection.

"(c) The trustees of such fire district may contract with the council of any city or town, *or with the trustees of any other fire district established in any unincorporated territory, town or village,* lying within five (5) miles of the farthest limits of the district, *whether such city or town or other fire district shall lie within the same county or another county,* for the extension of fire protection service by such city or town, *or by such other fire district,* to property included within the district, and may agree to pay a reasonable consideration therefor, provided, that the owners of ten per cent (10%) of the taxable value of the property in any fire district may elect to make a contract with the city fire department for fire protection, or to be included in the fire district protection facilities. Likewise, the trustees may contract to permit the fire district equipment and facilities to be used by *or for* such cities or towns lying within the district, *or by such cities, towns, or other fire districts lying within five (5) miles of the farthest limits of the district.*"

Repealing clause.

Section 2. Any and all acts and parts of acts in conflict hereof are hereby repealed.

Approved March 4, 1959.

CHAPTER 119

An Act to Amend Section 26-103, Revised Codes of Montana, 1947, as Amended by Chapter 52, Session Laws of the Thirty-fifth Legislative Assembly of Montana, 1957, Relating to the Meetings of the Fish and Game Commission, Place of Meetings, and Providing That the Commission Shall Pay Rent for Space in the State Office Building Until Such Time As the Commission May Establish Its Own Offices; and Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 26-103, Revised Codes of Montana, 1947, as Amended by chapter 52, Session Laws of the Thirty-fifth Legislative Assembly of Montana, 1957, be, and the same is hereby amended to read as follows:

Meetings of state fish and game commission.

"26-103. (3652) **Meetings.** The members of the commission shall within thirty (30) days after their appointment and annually thereafter meet and organize by electing from its membership a chairman and shall hold quarterly or other meetings for the transaction of business, at such times and places it may deem necessary and proper, said meetings to be called by the chairman, or by a majority of the commission, and to be held at the time and place specified in the call for the same. A majority of the members of the commission shall constitute a quorum for the transaction of any business which may come before it. The said commission shall keep a record of all the business transacted by it. The chairman and secretary, hereinafter designated, shall sign all orders, minutes or documents for the commission. The principal offices of the commission shall be located near the capitol building in Helena, and suitable and adequate rooms therefor, together with janitor serv-

Quorum.

Record.

Offices.

ices, light, heat and water shall be furnished by the State of Montana. *Rental shall be charged at two dollars ($2.00) per square foot per year for the total space occupied. Such* charge to the commission *shall be in effect* until such time as the commission shall provide other building or buildings. *Such rental collected shall be deposited to the credit of the State General Fund.* The commission, upon the approval of the board of examiners, is empowered to construct, acquire, erect, equip, enlarge and improve or purchase buildings suitable for its needs to be located at the seat of the state government."

Rental.

Deposit.

Power to acquire buildings.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 4, 1959.

CHAPTER 120

An Act Relating to the Use of Radiomicro Waves or Other Electrical Devices to Detect Speed of Vehicles Being Operated Upon the Public Highways of the State of Montana; Providing That the Speed of Vehicles May be Measured by Use of Radiomicro or Other Electrical Device; Providing That the Results of Such Measurements Shall be Accepted As Evidence of Speed In Any Court or Legal Proceedings Where the Speed of a Vehicle is at Issue; Authorizing Arrests Without a Warrant When Officer Is In Uniform or Displays His Badge of Authority and When Such Officer Has Observed the Recording of Vehicle's Speed by Radiomicro Waves or Other Electrical Device or Has Received a Radio Message from Another Officer and Where Made Immediately Thereafter Or as a Result of An Uninterrupted Pursuit; Providing for the Erection of Signs to Warn Motorists; Repealing All Acts Or Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Use of radar—Evidence admissible.** The speed of any motor vehicle may be measured by the use of radiomicro waves or other electrical device. The re-

Use of radar in measuring speed of motor vehicles.

sults of such measurements shall be accepted as evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue.

Arrest without warrant.

Section 2. **Arrest without a warrant in radar cases.** The driver of any such motor vehicle may be arrested without a warrant under this act provided the arresting officer is in uniform or displays his badge of authority and has either:

Observation.

(a) Observed the recording of the speed of the vehicle by radiomicro waves or other electrical device; or

Identification.

(b) Received, from the officer who has observed the speed of the vehicle recorded by the radiomicro waves or other electrical device, a radio message giving the license number or other sufficient identification of the vehicle and the recorded speed, dispatched immediately after the speed of the vehicle was recorded; and

Arrest immediate.

(c) That the arrest without a warrant of any such driver must be made immediately after such observation or radio message and as the result of uninterrupted pursuit.

Erection of radar signs.

Section 3. **Erection of radar signs.**

(a) No operator of a motor vehicle may be arrested under this act unless signs have been placed at or near the state line on the primary highway system, outside towns or cities having over two thousand five hundred (2,500) population, and outside county seats on the primary highways to indicate the legal rate of speed and that the speed of vehicles may be measured by radiomicro waves or other electrical device.

Duty to erect signs.

(b) Any municipality which uses radiomicro waves or other electrical device for law enforcement purposes shall erect and maintain appropriate signs giving notice of such use at a conspicuous place at or near the corporate limits of the municipality, upon each state highway and arterial street or highway entering the municipality, and at such other places as may be deemed necessary by the municipal authorities for the information of the traveling public.

Section 4. That all acts or parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Approved March 4, 1959.

CHAPTER 121

An Act to Amend Section 75-1522 of the Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 109 of the Session Laws of the Thirty-second Legislative Assembly of the State of Montana, 1951, and Section 1 of Chapter 242 of the Session Laws of the Thirty-fourth Legislative Assembly of the State of Montana, 1955, Relating to the Abandonment of School Districts; Deleting Therefrom the Provisions with Respect to Transportation and Payments in Lieu of Transportation, and the Effect Thereof; Providing That the Period of Abandonment for School Districts Which Have Provided Transportation Or In Lieu of Transportation, Payments, during the Years 1958-1959 Shall Not Commence Until July 1, 1959; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-1522 of the Revised Codes of Montana, 1947, as amended by section 1 of chapter 109 of the Session Laws of the Thirty-second Legislative Assembly of the State of Montana, 1951, and section 1 of chapter 242 of the Session Laws of the Thirty-fourth Legislative Assembly of the State of Montana, 1955, be, and the same is hereby amended to read as follows: **Amending clause.**

"75-1522 (970) **Abandonment of school districts.** (1) He shall attach to contiguous districts territory not a part of any district except as hereinafter provided, and he must declare a school district abandoned when a school has not been operated in the district during a period of three (3) consecutive years. The county superintendent in determining the question of abandoning any school district under this act must include any period of time that may have elapsed before the approval of this **Abandonment of school districts.**

Exception, July 1, 1959.

act, *except that the period of abandonment for these districts which have during the school years 1958-1959 provided transportation or in lieu of transportation, payments, shall not commence until July 1, 1959;* provided, however, that the county superintendent of schools shall notify each school district which has not operated a school for two (2) years, that the nonoperation of a school for another year will bring about abandonment: Failure of the county superintendent to give such notification does not, however, protect the district from abandonment.

Proviso—notification.

Attachment to contiguous districts.

"(2) The abandoned territory shall be attached to a contiguous district or districts. Whenever there are five (5) or more children in abandoned territory eligible for attendance in an elementary school as determined by the county superintendent and residing more than three (3) miles from an established school in the district to which the abandoned territory is attached, the school trustees shall provide a school in such abandoned territory when requested so to do by the parents of at least three (3) of such children. In determining whether such children reside more than three (3) miles from an established school in the district, the measurement must be by the shortest regularly traveled route. Whenever a school district is ordered abandoned and there is any indebtedness outstanding against the district represented either by registered warrants, or bonds, or both, and there is not sufficient money in the funds of the district to pay the same, all money in the funds of the district shall be set aside and applied in payment of such indebtedness, and there shall be levied annually, in the manner provided by law, a tax against all property within the boundaries of such district, as the same existed when such indebtedness was incurred, sufficient to pay such indebtedness as it matures, with all interest becoming due thereon.

Duty to provide school in abandoned territory.

Payment of indebtedness.

Remaining funds.

"(3) All funds of an abandoned district, after all the debts of the district have been paid, shall be placed in the general fund of the district or districts to which its territory is attached on order of the county superintendent. If the territory of an abandoned district is divided and a part attached to two (2) or more districts, the funds of the abandoned district, after all its debts have been paid, shall be apportioned by the county superintendent between the districts to which such territory is attached in

Apportionment.

proportion to the assessed value of the property attached to each thereof. The school buildings, if any, in the abandoned territory, shall not be disposed of or removed unless approval for disposal or removal is given by a majority vote of the residents of the abandoned district present at a meeting in such school buildings, such meeting to be duly called by the board of trustees of the consolidated district. The county superintendent shall have power to declare a school district abandoned when there is an insufficient number of residents of said district who could qualify or when the available residents refuse to qualify in sufficient number as trustees and clerk for said district so that no legal board can be formed or a quorum obtained so that meetings of a board of trustees of such district can be held. Whenever a school district is ordered abandoned upon order of the county superintendent of schools in such case, then he shall attach said school district to a contiguous district or districts as herein provided.''

Abandoned school buildings.

Power to abandon.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 4, 1959.

CHAPTER 122

An Act Relating to the Taxation of Small Business Corporations and Providing the Definition of a Small Business Corporation; and Providing for Election to be Treated as a Small Business Corporation; and Providing for the Taxation of Corporate Earnings Through Personal Income Tax of the Stockholders; and Providing for the Retention of the Minimum Corporation License Tax; and Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Chapter 15 of title 84 of the Revised Codes of Montana, 1947, is amended by addition of a new section entitled, ''Election of Certain Small Business Corporations as to Taxable Status'' and numbered 84-1501.1, as follows:

Amending clause.

Definition—small business corporation.

Section 1. **Definitions.**

(a) Small Business Corporation. For purposes of this act, the term "small business corporation" means a corporation doing business in Montana, and which does not—

(1) have more than ten (10) shareholders;

(2) have as a shareholder a person (other than an estate) who is not an individual;

(3) have a nonresident alien as a shareholder; and

(4) have more than one class of stock.

Electing.

(b) Electing Small Business Corporation. For purposes of this act, the term "electing small business corporation" means, with respect to any taxable year, a small business corporation which has made an election under this act, in effect for such taxable year.

Election.

Section 2. **Election by small business corporation.**

Eligibility.

Election valid when.

(a) Eligibility. Except as provided in subsection (f), any small business corporation may elect, in accordance with the provisions of this section, not to be subject to the taxes imposed by this chapter. Such election shall be valid only if all persons who are shareholders in such corporation—

(1) on the first day of the first taxable year for which such election is effective, if such election is made on or before such first day, or

(2) on the day on which the election is made, if the election is made after such first day, consent to such election.

Effect.

(b) Effect. If a small business corporation makes an election under subsection (a), then—

Not subject to taxes.

(1) with respect to the taxable years of the corporation for which such election is in effect, such corporation shall not be subject to the taxes imposed by this chapter and, with respect to such taxable years and all succeeding taxable years, the provisions of this act shall apply to such corporation, and

Shareholder.

(2) with respect to the taxable years of a share-

holder of such corporation in which or with which the taxable years of the corporation for which such election is in effect end, the provisions of this act shall apply to such shareholder, and with respect to such taxable years and all succeeding taxable years, the provisions of this act shall apply to such shareholder.

(c) Where and How Made.

Time and manner.

(1) In General. An election under subsection (a) may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such manner as the State Board of Equalization shall prescribe by regulations.

(2) Taxable Years Beginning Before Date of Enactment. An election may be made under subsection (a) by a small business corporation for its first taxable year which begins after December 31, 1958, and on or before the date of the enactment of this subchapter, and ends after such date at any time—

(A) within the 90-day period beginning on the day after the date of the enactment of this subchapter, or

(B) if its taxable year ends within such 90-day period, before the close of such taxable year.

An election may be made pursuant to this paragraph only if the small business corporation has been a small business corporation (as defined in this act) on each day after the date of the enactment of this subchapter and before the day of such election.

Years effective.

(d) Years for Which Effective. An election under subsection (a) shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation, unless it is terminated, with respect to any such taxable year, under subsection (e).

(e) Termination.

New shareholders—termination.

(1) New Shareholders. An election under subsection (a) made by a small business corporation shall terminate

if any person who was not a shareholder in such corporation—

(A) on the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

(B) on the day on which the election is made, if such election is made after such first day,

becomes a shareholder in such corporation and does not consent to such election within such time as the state board of equalization shall prescribe by regulations. Such termination shall be effective for the taxable year of the corporation in which such person becomes a shareholder in the corporation and for all succeeding taxable years of the corporation.

Revocation.

(2) Revocation. An election under subsection (a) made by a small business corporation may be revoked by it for any taxable year of the corporation after the first taxable year for which the election is effective. An election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the revocation. A revocation under this paragraph shall be effective—

(A) for the taxable year in which made, if made before the close of the first month of such taxable year.

(B) for the taxable year following the taxable year in which made, if made after the close of such first month, and for all succeeding taxable years of the corporation. Such revocation shall be made in such manner as the state board of equalization shall prescribe by regulations.

(3) Ceases to be Small Business Corporation. An election under subsection (a) made by a small business corporation shall terminate if at any time—

(A) after the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

(B) after the day on which the election is made, if such election is made after such first day, the corporation ceases to be a small business corporation (as defined in this act). Such termination shall be effective for the taxable year of the corporation in which the corporation ceases to be a small business corporation and for all succeeding taxable years of the corporation.

Election after termination.

(f) Election After Termination. If a small business corporation has made an election under subsection (a) and if such election has been terminated or revoked under subsection (e), such corporation (and any successor corporation) shall not be eligible to make an election under subsection (a) for any taxable year prior to its fifth taxable year which begins after the first taxable year for which such termination or revocation is effective, unless the state board of equalization consents to such election.

(g) This election shall not be effective unless the corporate net income or loss of such electing corporation shall have been included in the stockholders' adjusted gross income as such is defined in section 84-4905 Revised Codes of Montana, 1947, as amended.

Fee $10.00.

(h) Every electing corporation shall be required to pay the minimum fee of ten dollars ($10.00) required by section 1501.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1959.

CHAPTER 123

An Act to Amend Section 26-703, Revised Codes of Montana, 1947, as Amended by Chapter 182, Laws of 1947, Relating to the Shipping of Fish, Game Animals, Game Birds, Furbearing Animals from the State of Montana by Nonresidents and Authorizing the Shipment Thereof by Shipping Permits; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 26-703, Revised Codes of Montana, 1947, as amended by Chapter 182, Laws of 1947, be, and the same is hereby amended to read as follows:

Nonresident permit to ship fish.

"26-703. (3732) **Permit to nonresident to remove fish, animals or parts of animals from state.** There shall be attached to all nonresident fishing licenses, a permit authorizing the holder thereof to ship, remove or cause to be removed from the state *a* legal limit of fish legally taken or killed; provided such shipping permit shall not be valid if detached from such license prior to its use to authorize shipment of fish. *Permits for the shipment of additional fish may be purchased from authorized license dealers provided that issuance of additional shipment permits shall not be construed as allowing the taking or killing of more than a legal limit of fish in any one day.*

Additional shipment permits limited to legal limits.

Procedure for shipment of fish and game.

"Any nonresident person who desires to ship, remove or cause to be removed from the state, any *fish,* game animals, game birds, *fur-bearing animals,* or any part thereof lawfully taken or killed, shall possess or obtain a shipping permit, and shall present the same to the transportation company, together with his license and the consignment of game to be shipped. Provided, any person who removes from the state any game animals, game birds, fish, *fur-bearing animals,* or any part thereof by means of a truck, automobile or airplane, shall have in his possession a shipping permit. Provided, further, that any nonresident, who has lawfully taken any game animals, game birds, fish, *fur-bearing animals,* or any part thereof, in an adjoining state, and is compelled, by reason of mountainous country or other local conditions, to carry and transport said game animals, game birds, fish, *fur-bearing animals,* or any part thereof, over and across this state in order to return with said game animals, game birds, fish, *fur-bearing animals,* or any part thereof, to said adjoining state in which said game was taken, may do so provided he has the necessary license for the taking thereof issued by the state in which the game animals, game birds, fish or fur-bearing animals were taken."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1959.

CHAPTER 124

An Act to Amend Section 75-1716 of the Revised Codes of Montana, 1947, Replacement Volume Four (4), Relating to the Emergency Budgets of School Districts; Providing that the Board of Trustees of the School District Shall Determine When An Emergency Exists By Reason of Increased Enrollment, Or by Destruction of School Property by Certain Specified Causes; Providing that the School Trustees Shall Hold a Meeting to Determine When An Emergency Exists; Providing for a Unanimous Vote of All Members of the Board to Declare an Emergency and the Entry Thereof by Resolution in Their Minutes; Providing for Publication of Such Resolution Once in a Newspaper in the District Involved Most Likely to Give Notice Thereof to the People of the School District or if There is No Newspaper in the District Then the Same Shall be Published in the Official County Newspaper; Providing for the Making and Adopting of a Preliminary Emergency Budget When the Members of the Board of Trustees Find that An Emergency Exists; Providing for the Furnishing of Copies of the Emergency Budget to the County Superintendent of Schools and to the Board of County Commissioners of the County Concerned; Providing for the Changing of and Approving of Such Emergency Budget by the Board of County Commissioners of the County Concerned; Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1716 of the Revised Codes of Montana, 1947, replacement volume four (4), be, and the same is hereby amended to read as follows:

Procedure for emergency school budgets.

"75-1716. (1019.16) **Emergency budgets.** (1) Whenever the board of trustees of a school district maintaining an elementary school or schools, at any time after December 31st of any school year, shall deem that an emergency exists by reason of an increase in the enrollment and attendance over that of the immediately preceding school year over and beyond the extent which such increase might reasonably have been anticipated at the time of the adoption of the budget for the then current school year, and that because of such increase in enrollment and attendance the budget approved and adopted for the then current school year does not provide sufficient funds to properly maintain and support such school or schools during the whole of the then current school year; or shall at any time during a school year deem that an emergency exists because of the destruction of any school property necessary to the maintenance of school, or its impairment by fire, flood, storm, riot, insurrection or other act of God, to such an extent as to render it unfit or prevent its use for the school purposes for which theretofore used; or because of the entering by a court of competent jurisdiction of a judgment for damages against the district, or the enactment of legislation, after the adoption of the final budget, requiring expenditures not contemplated therein, such board of trustees by unanimous vote of all members of the board present at any meeting, the time and place of holding which all of the trustees shall have had reasonable notice, may adopt and enter upon their minutes a resolution, stating the facts constituting the emergency, the estimated amount of money required to meet such emergency, and the time and place when the board will meet for the purpose of considering and adopting an emergency budget for such current school year.

Publication of resolution.

"(2) A copy of such resolution shall be published one (1) time in the newspaper of the *district, most likely to give notice thereof to the people of the district concerned, and if there is no newspaper located in the district then publication shall be in the official newspaper of the county,* a copy thereof shall be posted at the school house, or at each school house if there be more than one in the district, and at the post office, if there be one in the district, and a copy thereof shall be delivered to the county superintendent of schools and another copy delivered to the county clerk as clerk of the board of county commissioners of the county in which the school district is situated. The time designated in such notice for such meeting shall be not less than one (1) week after publication, posting and delivery of such copies of resolution. Such meeting shall be open to the public and any taxpayer in the district shall have the right to appear and be heard.

Majority of board.

"(3) If at such meeting a majority of the members of the board of trustees shall find that any such emergency actually exists, such board may make and adopt a preliminary emergency budget setting forth fully the facts constituting the emergency. If the emergency is due to increased enrollment and attendance the budget shall be so itemized as to show the amount appropriated therein for each item of instructional cost, maintenance of plant, operation of plant and auxiliary agencies, in the order in which such items are required to be set out in the annual budget by section 75-1703, Revised Codes of Montana, 1947, and the total amount to be appropriated for all such items, provided that the maximum amount which may be so appropriated in such emergency budget shall be determined in the following manner; the amount appropriated in the annual budget for the maintenance and support of such school or schools for the then current school year, less amounts appropriated as capital outlay for new buildings and alterations and new equipment, and reserve for the following school year, shall be divided by the number of pupils originally enrolled in such school or schools during the immediately preceding school year so as to ascertain the amount budgeted therein, less amounts appropriated for such capital outlay and reserve, for each such enrolled pupil, and such amount for each such enrolled pupil shall be multiplied by the increase in the number of pupils enrolled for the current school year over the number enrolled for the immediately preceding school year. The total amount appropriated in the emergency budget must not exceed such maximum amount.

Amount.

"(4) In the event of any other emergency described in this section, the preliminary emergency budget shall state the amount to be appropriated therein as definitely as possible the details of the proposed expenditures of the appropriation. Three (3) copies of the emergency budget shall be furnished the county superintendent of schools and such county superintendent must lay one (1) copy thereof before the board of county commissioners, which constitutes the board of school budget supervisors for the county, at the next regular meeting of such board. Such board shall have the power to make such change in such budget, if any, as it may deem proper and necessary, and shall then approve such budget, either as adopted by the

Copies.

board of school trustees, or as changed by the board of county commissioners."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1959.

CHAPTER 125

An Act Declaring that the Acceptance or Solicitation of Money or Other Considerations in Connection With Any Contract for the Advertising of Real Property by Misrepresentation Or by Failing to Disclose Facts Pertinent to Such Contract is a Felony and Prescribing a Penalty; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Penalty for false representation by real estate agent.

Section 1. Any person engaged or purporting to be engaged as an advertising agency for real property who accepts or solicits money or other considerations for himself or for any other person, in connection with the execution by an owner of real property of any contract whereby such owner authorizes such person to serve as an advertising agency for the sale of such property, and who for the purpose of inducing the owner of such property to enter into such a contract makes or procures the making of any oral or written representation of fact with respect to the nature or extent of the services to be rendered for or on behalf of such owner by any such person under such contract, with reasonable ground for belief that such representation is not true, or who refrains from disclosing to such owner, any matter of fact pertinent to the nature or extent of the services to be rendered for or on behalf of such owner by any such person under such contract is guilty of a felony and shall be imprisoned for not less than one (1) year nor more than five (5) years.

Felony.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1959.

CHAPTER 126

An Act to Amend Section 84-4711, Revised Codes of Montana, 1947, Relating to the Qualifications of Electors Entitled to Vote Upon Proposals to Create or Increase Indebtedness of a City, Town, School District, or Other Municipal Corporation and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-4711, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Qualifications for voting on municipal or school indebtedness.

"84-4711. (5199.1) **Qualifications for voting on creation or increasing municipal or school indebtedness.** That from and after the passage and approval of this act, only such registered electors of the city, town, school district, or other municipal corporation whose names appear upon the last preceding assessment roll shall be entitled to vote upon any proposal to create or increase any indebtedness of city, town, school district or other municipal corporation, required by law to be submitted to a vote of the electors thereof; *provided however, that no such elector, otherwise qualified hereunder, shall be denied the right to vote by reason of the fact that the polling place for a general election for the precinct wherein he resides and is entitled to vote, lies within another city, town, school district or other municipal corporation.*"

Proviso—right to vote not denied because of polling place.

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1959.

CHAPTER 127

An Act to Amend Section 75-3912, Revised Codes of Montana, 1947, Relating to the Qualifications of Electors Entitled to Vote in School District Bond Elections and Providing for the Closing of the Registration Books and the Posting of Notice of Election and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-3912, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Qualifications for voting in school district bond elections.

"75-3912. (1224.12) **Who entitled to vote—List of electors and poll books.** In all school district bond elections hereafter held only qualified registered electors residing within the district who are taxpayers upon property therein and whose names appear upon the last completed assessment roll for state, county and school district taxes, shall have the right to vote, *provided however, that no such elector, otherwise qualified hereunder, shall be denied the right to vote by reason of the fact that the polling place for a general election for the precinct wherein he resides and is entitled to vote, lies within another school district.* Upon the adoption of the resolution calling for the election, the clerk of the school district shall notify the county clerk of the date on which the election is to be held, and qualified persons shall be allowed to register for such election up till noon of the fifteenth (15th) day prior to the date thereof. At that time the registration books shall be closed for such election, but it shall not be necessary to give any notice of such closing of the registration books.

Proviso—right to vote not denied because of polling place.

Notice.

Registration.

Books.

"After the closing of the registration books for such election the county clerk shall promptly prepare lists of the registered electors of such district who are taxpayers upon property therein and whose names appear on the last completed assessment roll for state, county and school district taxes, and who are entitled to vote at such election, and shall prepare poll books for such election, as provided in Section 23-515, Revised Codes of Montana, 1947, and deliver the same to the school district clerk who shall deliver the same to the judge prior to the opening of the polls. In school districts of the first class it shall be the duty of the school district clerk to post such lists in five (5) public and conspicuous places within the district at least ten (10) days prior to the date of election. It

Duty to post lists.

shall not be necessary to post such lists in districts of the second and third class. A charge of five cents per name for the use ond benefit of the county shall be made by the county clerk for preparing such lists and poll books."

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 5, 1959.

CHAPTER 128

An Act to Amend Section 32-302, Revised Codes of Montana, 1947, as Amended by Chapter 109, of the Session Laws of the Thirty-fourth Legislative Assembly of Montana, 1955, Pertaining to the Powers and Duties of County Commissioners Respecting Highways by Authorizing County Commissioners to Employ a Road Foreman or Supervisor and Prescribing His Powers and Duties; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 32-302 of the Revised Codes of Montana, 1947, as amended by chapter 109, of the Session Laws of the Thirty-fourth Legislative Assembly of Montana, 1955, be, and the same is hereby amended to read as follows:

Amending clause.

"32-302. (1622) **Powers and duties of county commissioners respecting highways.** The boards of county commissioners of the several counties of the state have general supervision over the highways within their respective counties.

Powers and duties of county commissioners respecting highways.

1. They may, in their discretion, keep the county divided into suitable road districts, place each of such road districts in charge of a competent road supervisor, and order and direct each of such supervisors concerning the work to be done upon the public highway in his district.

Road districts.

2. They may, in their discretion, provide and order the county surveyor, or if the county surveyor is in-

Surveying.

competent, some other competent surveyor designated by the board, to prepare suitable plat books and have recorded therein with the county clerk a full description of every public highway within the county, showing each course by bearing and distance, with a full and complete map thereof, together with a record of all other proceedings with reference to the same.

Highways.

3. They must cause to be surveyed, viewed, laid out, recorded, opened, worked, and maintained such highways as are necessary for public convenience as in this act provided, and cause to be erected and maintained thereon guide-posts, as provided in this act.

Guide posts.

Abandonment.

4. They must abolish or abandon in the manner provided in this act such public highways as are not necessary for the public convenience.

Rights-of-way.

5. They must contract, agree for, purchase, or otherwise lawfully acquire the right-of-way over private property for the use of public highways, and for that purpose institute, when necessary, proceeding under sections 93-9901 to 93-9926, paying for such right-of-way from the general road fund of the county; provided, however, where roads or trails are or will be dedicated to public use as a highway they may construct and maintain thereon substantially constructed cattle guards, appurtenances, and gates adjacent thereto.

Bonds.

6. They may, in their discretion, but subject to the limitation and provisions in the constitution and codes provided, issue bonds upon the faith and credit of the county for the construction or improvements of main highways, state highways, and bridges.

Contracts.

7. They may, in their discretion, but subject to the limitation and restriction provided in the codes for the letting of public contracts, let out by contract the construction, maintenance, and improvement of the public highways, and the construction, maintenance, or repairs of bridges when the amount of work to be done exceeds the sum of one thousand dollars ($1,000.00).

Best interests.

8. They may, in their discretion, cause to be done whatever may be necessary for the best interests of the roads and road districts of their several counties.

Restriction of traffic.

9. They may limit or forbid, temporarily, any traffic or class of traffic, on the public highways or any part thereof, when in their discretion it is necessary that traffic be so restricted in order to preserve or repair such highways.

Reports.

10. They must make such reports, relating to the state roads under their supervision, to the state highway commission as may be requested by said commission.

Employment.

11. They may, in their discretion, employ a competent road builder, who shall be paid for his services as such not to exceed twelve dollars ($12.00) per day and in proportion for parts of days, and his actual expenses, who shall serve during the pleasure of the board, whose duty it shall be, under the direction and control of said board, to prescribe the times and places, when and where, all work shall be done on the roads of the county, report any delinquency or inefficiency of any road overseer, or any other person employed upon any such road, to the board of county commissioners, and perform such other duties as may be prescribed by said board. Provided, that in counties where the surveyor is not paid an annual salary, he may by agreement be employed by the county commissioners to perform the services of road builder and such county surveyor shall be paid for such services as above provided. Provided, that no county surveyor shall be paid hereunder for any duty otherwise required by law to be performed by him as county surveyor. Provided, however, that nothing in this act shall be construed to alter or repeal the provisions of sections 32-303 and 32-304.

Power to contract with state and federal agencies.

12. The county commissioners of any county may, in their discretion, whenever highway construction work is to be financed in whole or in part by federal funds, and the secretary of commerce of the United States of America shall affirmatively find that under the circumstances relating to a given project some other method than competitive bidding is in the public interest, may in the construction of farm to market roads, also designated as secondary and feeder roads, enter into and contract jointly or independently with either the Montana state highway commission, the United States bureau of public roads, or any other federal agency heretofore

established or which may be hereafter established, to acquire rights of way, survey, construct, and do any other thing essential and practical in securing such roads by force account, unit price or otherwise as may be agreed upon by said state highway commission and said board of county commissioners.

Road foreman.

13. The county commissioners of any county may appoint a road foreman or supervisor who, subject to the direction and control of the commissioners, will prescribe the times and places, when and where, all work shall be done on the county roads. The foreman or supervisor shall report any delinquency or inefficiency of road employees to the commissioners for their action. The commissioners may authorize the road foreman or supervisor to hire and discharge road employees.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1959.

CHAPTER 129

An Act to Amend Section 66-1806, of the Revised Codes of Montana, 1947, Relating to Fees for Examination of Applicants for Certificates of Certified Public Accountant; Providing for a Fee of Thirty Dollars ($30.00) for Examination, and After the Failure of An Applicant to Pass, a Fee of Five Dollars ($5.00) for Each Section of Each Additional Examination Taken by the Applicant; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-1806 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Fee for examination of certified public accountant.

''Section 66-1806. (3241.6) **Fee for examination and certificate—Re-examination.** The university shall be entitled to receive for the examination and certificate, provided for in section 66-1801, a fee of *thirty* dollars,

($30.00), payable in advance at the time of making application therefor. Any applicant who shall fail to pass an examination shall be entitled to further examinations within the next two (2) succeeding years following such failure, but at such times only as the board of accountancy shall hold the regular examination, prescribed in section 66-1805. Such applicant shall not be entitled to more than one (1) examination in each year, providing, that for each additional *section of each additional* examination, after the failure of such applicant to pass, a fee of five dollars ($5.00) shall be paid by said applicant for each additional *section of each such additional* examination.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1959.

CHAPTER 130

An Act to Amend Section 94-1805, Revised Codes of Montana, 1947, Relating to Obtaining Money or Property by False Pretenses; Making It An Offense to Obtain Services by False Pretenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 94-1805 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Penalty for obtaining money, property or services by false representation.

''94-1805. (11410) **Obtaining money, property** *or services* **by false pretenses.** Every person who knowingly and designedly, by false or fraudulent representation or pretenses, defrauds any other person of money or property, including evidence of indebtedness, *or who knowingly and designedly obtains the service of another by false or fraudulent representation or pretenses,* or who causes or procures others to report falsely of his wealth or mercantile character, and by thus imposing upon any person obtains credit, and thereby fraudulently *receives services or* gets into possession of money or property, is punishable in the same manner and to the same extent as for larceny of the money or *the value of the* property *or services* so obtained."

Approved March 5, 1959.

CHAPTER 131

An Act to Amend Section 38-214 of the Revised Codes of Montana, 1947, as Amended by Chapter 49 of the Session Laws of the Thirty-fourth Legislative Assembly of Montana 1955, Relating to the Hearing and Examination of Persons Submitted to the Montana State Hospital and Fixing the Procedure for Determining Who Shall Pay the Cost and Care of Maintenance and Fixing the Amount the Hospital May Receive for Care and Maintenance; Providing for the Recovery from Persons Who Have Been Received As An Indigent Person; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing for An Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 38-214 (1444), Revised Codes of Montana, 1947, as amended by chapter 49 of the Session Laws of the Thirty-fourth Legislative Assembly of Montana 1955, be, and the same is hereby amended to read as follows:

Hearing and examination for insanity.

"38-214. (1444) **Hearing and examination of insane person—Maintenance—Contribution by relatives—When had.** (1) When the judge has fixed the time for hearing and examination, as provided in section 38-201, Revised Codes of Montana, 1947, the clerk of court must immediately deliver to the county board of public welfare a written notice giving the name of person named in the affidavit and warrant, his place of residence, and the name of the person making the affidavit, and some member of the staff of such board must within thirty (30) days after the notice is served on the board make an investigation to ascertain and determine the financial condition of the person named in such affidavit and warrant, the property and value thereof, if any be owned by

Investigation within 30 days of financial condition.

such person, the income, if any, therefrom, names of relatives, if any, legally liable for the support and maintenance of such person, and their financial condition and ability to pay the cost of such proceeding, transportation to the Montana state hospital, and care and maintenance of such person therein, and shall make a written report of such investigation and file the same with the clerk of the court and serve a copy of the report upon the superintendent of the Montana state hospital.

Report filed with court clerk. Copy to superintendent of state hospital.

Duty of judge to take evidence of financial worth.

"(2) It shall be the duty of the judge, before whom the sanity hearing is had, to take evidence as to the financial worth of said person, the property and value thereof owned by him, if any, and the income, if any therefrom, and the financial condition and ability of any and all persons legally liable for his support and maintenance to pay the costs of such proceeding, transportation to the state hospital and care and maintenance of such person therein, and when the report of the member of the staff of the county public welfare board making the aforesaid investigation has been filed in the office of the clerk of the court it shall be considered and deemed a part of such evidence. All evidence introduced shall be reduced to writing and filed in the office of the clerk of said court, together with all orders, subpoenas, affidavits, complaints, warrants and papers used on said hearing or made by said judge, and said clerk shall enter upon the journal of the minutes of probate proceedings a record of all proceedings had, in the same manner as proceedings in probate. Copies of all the evidence relating to the financial condition of the person shall be sent to the superintendent of the Montana state hospital.

Report part of evidence.

Copies of evidence to superintendent.

Duty of judge to issue citations and appoint guardian.

"(3) If, after all of the evidence, including the welfare report has been filed as aforementioned, it appears from said evidence that such person has any means, money or property out of which the costs of the proceeding, transportation to the state hospital and his maintenance therein, or any part thereof could be paid, it shall be the duty of the judge before whom such hearing is had, to issue a citation to any person or persons in possession of such property, or any thereof, and to the relatives of such person, if any there be in the county of which such person is a resident, citing them to appear and show cause why a guardian should not be appointed for such person, and why said guardian should not be ordered to pay the costs of such proceeding, transportation to the state hospital and cost of the maintenance of such person, or so much thereof as his means will permit, which citation shall be served and all proceedings thereunder conducted as provided by sections 91-4301 to 91-4322, Revised Codes of Montana, 1947, and if it appears to the court that such person has property that can be applied towards the payment of the costs of the proceeding, transportation to the state hospital and his maintenance therein, it shall be the duty of the court to make an order to that effect, stating how much of such person's property shall be so applied, the amount to be fixed with due regard to the proper preservation of the estate of such person, provided that the amount fixed for the maintenance of such person in such hospital shall not, in any event, exceed the sum of three dollars ($3.00) per day for the first ninety (90) days from and after the date of the first admission, and thereafter shall not exceed the sum of two dollars ($2.00) per day. If it appears to the court that such person has no means, money or property, or not sufficient means, money or property, to pay the costs of the proceeding, transportation to the state hospital and his maintenance therein, but has relatives who are legally liable for his maintenance and support, and upon whom citation has been served as herein provided, who are financially able to pay such costs of proceedings, transportation and maintenance, or a part thereof, it shall be the duty of the court to make an order to that effect, stating therein the names of such relatives, and requiring them to pay such costs of proceedings, transportation and maintenance, in such hospital, or so much thereof as may be fixed in such order; provided that the amount fixed for the maintenance of such person in such hospital shall not, in any event, exceed the sum of three dollars ($3.00) per day for the first ninety (90) days from and after the date of the first admission, and thereafter shall not exceed the sum of two dollars ($2.00) per day.

Duty to make order applying person's property for maintenance.

Limitation of $3.00 for 90 days and $2.00 thereafter.

Duty to make order making relatives liable for maintenance.

Limitation on costs.

When indigent.

"(4) If it appears to the court that such person is an indigent and has no relatives legally liable for his support and maintenance the court shall make an order so stating and that such person is to be received at such hospital as an indigent person. *Provided, however, that in the event any such person so admitted as a patient under the provision of this act as an indigent person shall thereafter be found not to have been indigent, or shall come into an estate of inheritance, or acquire property of any kind, or be the recipient, or entitled to the receipt, of any income of any nature, trust or otherwise, that in any of such event, while the person remains a patient at the state hospital, the State of Montana shall be entitled to recover the cost and care for the maintenance of said patient from any of such assets owned, earned or accruing to said patient, and provided further that after dismissal as a patient, any such recovery shall apply only against an estate of inheritance.*

Proviso—in event of after acquired assets.

"(5) Whenever any order is made by the court directing the payment of the costs of proceeding, transportation and maintenance or any part thereof of any person out of the estate of such person, or by any relatives thereof legally liable for his support and maintenance, such order must be filed in the office of the clerk of the court and such court must make duplicate certified copies thereof, delivering one thereof to the board of county commissioners of such county and transmitting the other thereof to the superintendent of the Montana state hospital.

Order filed with court clerk, copies to board of county commissioners and superintendent of state hospital.

Section 2. Repealing all acts and parts of acts in conflict herewith.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its full passage and approval.

Effective immediately.

Approved March 5, 1959.

CHAPTER 132

An Act to Amend Section 16-910, of the Revised Codes of Montana of 1947, Relating to the Time of and Duration of the Regular Meetings and Extra Sessions of the Board of County Commissioners in Counties of Certain Classes; Providing for an Extra Meeting of the Board of County Commissioners to be Held On the Third Monday of Each Month of Every Year, Except When Meeting As the County Board of Equalization

As Provided by Law; Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-910, of the Revised Codes of Montana, of 1947, be, and the same is hereby amended to read as follows:

Regular meetings of board of county commissioners on first and third Mondays of each month.

"16-910. (4462) **Regular meetings—Extra sessions.** The board of county commissioners, except as may be otherwise required of them, may meet at the county seat of their respective counties on the first *and third* Mondays of each and every month of the year, *except when meeting as the County Board of Equalization as provided by law,* for the purpose of allowing bills and attending to any other business that may regularly come before them, and may sit not exceeding three days at each session, except the December session, at which time they may sit not exceeding eight days. But the board may at any time, by giving at least two days' posted public notice, hold an extra session of not over two days' duration; provided, that the limitations as to the time of sessions of the board of county commissioners contained in this section shall not apply to counties of the first, second, third or fourth classes."

Extra sessions.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1959.

CHAPTER 133

An Act to Amend Section 84-1817 of the Revised Codes of Montana, 1947, Replacement Volume Five (5), as Amended by Section One (1), Chapter One Hundred Thirteen (113) of the Session Laws of 1957, Relating to the Method for the Determination, Allotment and Apportionment of the State Highway Fund for Construction Purposes; Providing for the Allotment of State Construction Funds for the Federal Aid Interstate Highway System; Providing for Apportionment of State Funds to Finance Districts; Providing that the Definition of the Value of Rural Lands Shall Include the Value of State-Owned Lands from Which the State Derives Grazing, Timber and Agricultural Income; Providing that the Basis for the Value of Rural Lands Shall be from Figures in the Latest Biennial Report of the Montana State Board of Equalization and the Basis for the Figure of State-Owned Lands Shall be from Figures Submitted by the Commissioner of State Lands and Investments on the Total Grazing, Timber and Agricultural Lands of Each County; Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 84-1817 of the Revised Codes of Montana, 1947, Replacement Volume Five (5) as amended by section one (1), chapter one hundred thirteen (113) of the Session Laws of 1957, be, and the same is hereby amended to read as follows:

Distribution of state highway construction funds; allotment of of funds for federal aid highway systems.

"84-1817. (2396.3) **Distribution of state highway construction funds.** (1) Allotment of state construction funds for federal aid highway systems. At the start of the fiscal year beginning July 1, 1957, and at the beginning of each fiscal year thereafter, the state highway commission shall allot available state construction moneys to the federal aid interstate highway system, the federal aid primary highway system, the federal aid secondary highway system and the federal aid urban highway system in proportion to the amounts necessary to match the respective amounts of federal aid available for expenditure on these systems at the beginning of each fiscal year.

Apportionment to federal aid primary system.

"(2) Apportionment of state construction moneys to the federal aid primary highway system. At the start of the fiscal year beginning July 1, 1953, and at the beginning of each fiscal year thereafter, the state highway commission shall compute from its records the percentage of incompleted mileage of the federal aid primary highway system within each of said districts which each district respectively bears to the total incompleted mileage of said federal aid primary highway system within this state at that time, and the actual respective percentages of incompleted mileage in each district as so computed and determined at the beginning of each fiscal year shall be used in apportioning construction moneys for that year to each of the said financial districts from the state highway fund as defined and provided by Section 84-1816, Revised Codes of Montana, 1947. As a basis for the determination of the amount of incompleted mileage of said federal aid primary highway system in this state for each fiscal year, the state highway commission shall adopt as the criterion the current definition, as prescribed by the bureau of public roads, for a fully and adequately completed federal highway in this state. This criterion shall be considered as a one hundred per cent (100%) completed federal highway; and federal highway mileage which is only partially completed under the application of this criterion, shall be considered as only partially completed on a percentage basis, this to be determined from the relative estimated percentage costs of construction already performed and of additional construction which must be performed to bring said mileage up to the standard of said criterion.

Apportionment to federal aid secondary system.

"(3) Apportionment of state construction moneys to the federal aid secondary highway system. At the start of the fiscal year beginning July 1, 1953, and at the beginning of each fiscal year thereafter, state construction moneys for the federal aid secondary highway system shall be apportioned to each of the financial districts as defined in section 84-1815, Revised Codes of Montana, 1947, on a percentage basis as determined in the following manner: One-fourth (¼) in the ratio of land area in each financial district to the total land area in the state; one-fourth (¼) in the ratio of the rural population in each financial district to the total rural population in the state; and one-fourth (¼) in the ratio of the rural road mileage in each financial district to the total rural road mileage in the state; one-fourth (¼) in the ratio of value of rural lands in each financial district to the total value of rural land in the state. Said moneys to be further apportioned to the counties within each financial district in the same ratio of land area, rural population and rural road mileage; and value of rural lands, provided, that to the extent necessary to permit orderly programming and construction of projects, expenditures of construction money in any county may exceed the amount apportioned to that county with the provision that such excess expenditure shall not exceed three (3) times the amount of the last annual apportionment to that county and that any excess expenditures shall be deducted from future apportionments to that county.

"Rural population" defined.

''For the purposes of this section, rural population is defined as total population less the population in cities over five thousand (5,000) persons and their unincorporated fringe urban areas as reported in the federal census. Decennial census figures for population shall be adjusted during the interim between censuses in accordance with the percentage of change occurring in annual motor vehicle registration figures for each county.

"Rural road mileage" defined.

''For the purposes of this section, rural road mileage is defined as all road mileage outside incorporated cities, exclusive of road mileage on the federal aid rural primary highway system. Rural road mileage figures reported by the road inventory of the state highway commission shall be used in determining rural road mileage as defined in this section.

Value of state owned lands included.

''For the purposes of this section, the value of rural lands, shall include the value of state owned lands from which the state derives grazing, timber and agricultural income.

Computation of values.

''The basis for the value of rural lands shall be computed from the figures in the latest biennial report of the Montana State Board of Equalization. The basis for the value of state owned lands shall be computed from the latest figures on the total grazing, timber and agricultural lands in each county, submitted by the Commissioner of State Lands and Investments in his latest biennial report. The average value of privately owned lands shall be the average value of the state owned lands, if the actual values are not available.

Apportionment to federal aid urban system.

''(4) Apportionment of state construction moneys to the federal aid urban highway system. At the start of the fiscal year beginning July 1, 1953, and at the beginning of each fiscal year thereafter, state construction moneys for the federal aid urban highway system shall be apportioned to the cities in the state over five thousand (5,000) population in the ratio of urban population in each city to the total urban population in the state for all cities over five thousand (5,000) population.

"Urban population" defined.

"For the purpose of this section, urban population is defined as population within the incorporated limits of cities over five thousand (5,000) population and also the population within unincorporated urban fringe areas as delineated and reported in the federal census.

Excess expenditures.

"To the extent necessary to permit orderly programming and construction of projects, expenditures of construction money in any urban city may exceed the amount apportioned to that city with the provision that such excess expenditures shall be deducted from future apportionments to that city.

Apportionment to federal aid interstate system.

"(5) Apportionment of state construction moneys to the federal aid interstate highway system. At the start of the fiscal year beginning July 1, 1957, and at the beginning of each fiscal year thereafter, state construction moneys for the federal aid interstate highway system shall be apportioned to each of the financial districts, as defined in section 84-1815, Revised Codes of Montana, 1947, in proportion to the estimated cost of constructing or reconstructing the system in each district as compared with the total estimated cost of constructing or reconstructing the entire system within the state. The cost estimates to be used for apportioning said state construction funds shall be those costs developed by the state highway commission in accordance with the provisions of subsection (d) of section 108 of title I of the federal aid highway act of 1956.

Allowable variations.

"(6) The state highway commission may vary the expenditures made in any financial district under the provisions of this act to the extent of fifteen per cent (15%) above the amount of money allocated to such district in any year for the federal aid primary highway system or the federal aid secondary highway system, and to the extent of one hundred per cent (100%) above the amount of money allocated to such district in any year for the federal aid interstate highway system, provided that the allocation of construction money to such district for the next succeeding fiscal year shall be decreased by an amount equal to such increased expenditures."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 5, 1959.

CHAPTER 134

An Act to Amend Chapter 20, Title 32, of the Revised Codes of Montana, 1947, by Adding Thereto a New Section to be Numbered 32-2009.1; Providing that No Commercial Enterprise or Structure Shall be Constructed, Located or Operated Within the Limits of a Right-of-Way or a Controlled Access Facility; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That chapter 20, title 32, of the Revised Codes of Montana, 1947, be, and the same is hereby amended by adding thereto a new section to be numbered 32-2009.1 to read as follows:

Amending clause.

"32-2009.1. **Commercial enterprise or structure.** No commercial enterprise or structure can be constructed or operated on the publicly-owned right-of-way of, or on any publicly-owned or publicly-leased land used for, or in connection with a controlled access facility."

No commercial enterprise or structure permitted with controlled access facility.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 5, 1959.

CHAPTER 135

An Act to Amend Sections 4-317 and 4-324, Revised Codes of Montana, 1947, Relating to Taxes On Beer to Provide that the Tax Upon Beer Manufactured in the State of Montana or Manufactured Out of the State and Lawfully Imported Into the State be Increased from One Dollar ($1.00) to one dollar and fifty cents ($1.50) per barrel of thirty-one (31) gallons; and to Repeal All Acts and Parts of Acts In Conflict Herewith; and to Provide An Effective Date for This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 4-317, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Brewer's license.

"4-317. (2815.22) **Licenses of brewers—Persons to whom brewers may sell beer—Barrelage tax.** (1) Any brewer duly licensed as such by the United States of America, who manufactures beer in the State of Montana, upon payment of the annual license fee imposed by section 4-341 and upon presenting satisfactory evidence to the board as required by section 4-310, shall be licensed by the board in accordance with the provisions of this act and such regulations as may be prescribed by the board, to sell and deliver:

(a) Beer to a vendor;

(b) Beer to any licensees who are entitled to purchase beer from a brewer under this act; or

(c) Beer to the public, subject to the limitations and restrictions contained in this act; or to do any one or more of such acts of sale and delivery of beer.

Fees.

(2) In addition to the annual license tax imposed by section 4-341, a tax of *one dollar and fifty cents ($1.50)* per barrel of thirty-one (31) gallons is hereby levied and imposed on each and every barrel of beer sold by any duly licensed brewer who manufactures beer in the State of Montana, which said barrelage tax shall be due at the end of each month and shall be payable with the brewer's monthly return or statement required to be made to the board under the provisions of section 4-311."

Amending clause.

Section 2. That section 4-324, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Tax on imported beer.

"4-324. (2815.29) **Tax on imported beer—Computation in case of barrels of capacity other than thirty-one**

gallons. A tax of *one dollar and fifty cents ($1.50)* per barrel of thirty-one (31) gallons, is hereby levied and imposed on each and every barrel of beer manufactured out of this state and sold herein by any wholesaler, which said tax shall be due at the end of each month from said wholesaler, upon any such beer so sold by him during that month. As to any beer imported and sold in containers other than barrels, or in barrels of more or less capacity than thirty-one (31) gallons, the quantity content shall be ascertained and computed by the board in determining the amount of tax due, as herein provided for."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective May 1, 1959.

Section 4. This act shall be in full force and effect from and after May 1st, 1959.

Approved March 5, 1959.

CHAPTER 136

An Act to Provide for Registration or Transfer of Securities to or by Fiduciaries or Their Nominees; to Provide that the Transferring Agent Is Not Bound to Inquire Whether the Fiduciary or Nominee Is Committing a Breach of the Fiduciary Relationship; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

On transfer of stock by fiduciary, corporation not bound to inquire into authority.

Section 1. If a fiduciary or the nominee of a fiduciary in whose name are registered or to be registered any shares of stock, bonds or other securities of any corporation, public or private, or company or other association, or of any trust, applies for the registration or transfer of the same, such corporation or company or other association, or any of the managers of the trust, or its or their transfer agent, is not bound to inquire whether the fiduciary or nominee is committing a breach of his obligation as fiduciary or nominee in making such registration or transfer, or to see to the performance of

Bound by actual knowledge.

the fiduciary obligation, and is liable for such registration or transfer only where such registration or transfer is made with actual knowledge that such fiduciary or nominee is committing a breach of trust in requesting such registration or transfer, or with knowledge of such facts that its or their participation in such registration or transfer amounts to bad faith.

"Fiduciary" defined.

Section 2. ''Fiduciary'' includes a trustee under any trust, expressed, implied, resulting or constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer, nominee, or any other person acting in a fiduciary capacity for any person, trust or estate.

Repealing clause.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1959.

CHAPTER 137

An Act to Amend Section 82-1008, Revised Codes of Montana, 1947, Relating to Examinations of Accounts of Cities, Towns and Certain School Districts, Providing a Fee of Sixty Dollars ($60) Per Day for Such Examinations, and Deleting Requirements for Payment of Transportation Expense; Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 82-1008, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duty of state examiner to make yearly examination of books of incorporated cities and towns.

''82-1008. **Examination of accounts of cities, towns and certain school districts.** The state examiner in addition to the duties now imposed upon his office, shall have the power and authority and it shall be his duty, to make at least *(1)* examination each year of the books and accounts of all incorporated cities and towns.

"The state examiner shall have the power and authority, and it shall be his duty, to make at least one *(1)* examination during each fiscal year of the books and accounts of all school districts of the first and second class and of third class districts maintaining a high school, in like manner as is now required by law for the examination of the books and accounts of state and county officers provided, however, that the trustees of any school district must, during the month of June of each calendar year, notify the state examiner if such examination will be required, in which event it shall be the duty of the state examiner to make an examination of such school district during the fiscal year following receipt of said notice.

Duty to make yearly examination of books of school districts.

"For such examination a fee of *sixty dollars ($60)* per day per man *shall be charged and the said fee* must be paid by such district into the state treasury and the state treasurer shall accredit such payment to the special examiners' fund.

Fee.

"In lieu of the examination by the state examiner as above provided, said school districts may provide for the examination of the books and accounts thereof by a qualified public accountant of the State of Montana.

Public accountant may be substituted.

"A copy of the examiner's or accountant's report shall be filed with the county superintendent of schools, the state superintendent of public instruction, and the clerk of the school district, and any citizen of the State of Montana shall have the right to inspect, copy out and publish any of the facts therein contained."

Filing of copies.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 5, 1959.

CHAPTER 138

An Act to Amend Section 5-905, Revised Codes of Montana, 1947, Relating to Payments by Cities and Towns, Fixing Amounts of Fees to Be Paid By Cities and

Towns for Examinations; Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 5-905, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Schedule of fees paid by cities and towns for examination by state examiner.

"5-905. **Payments by cities and towns.** For the credit of *such* fund each city and town of the state shall pay to the state treasurer on or before the first day of July of each year, according to its taxable valuation for the preceding year, as follows:

"Cities and towns having a taxable valuation of fifty thousand dollars ($50,000) or less, *fifty dollars ($50);*

"Cities and towns having a taxable valuation of from fifty thousand dollars ($50,000) to one hundred thousand dollars ($100,000), *sixty-five dollars ($65);*

"Cities and towns having a taxable valuation of from one hundred thousand dollars ($100,000) to two hundred thousand dollars ($200,000), *eighty dollars ($80);*

"Cities and towns having a taxable valuation of from two hundred thousand dollars ($200,000) to four hundred thousand dollars ($400,000), *one hundred five dollars ($105)*;

"Cities and towns having a taxable valuation of from four hundred thousand dollars ($400,000) to six hundred thousand dollars ($600,000), *one hundred thirty dollars ($130);*

"Cities and towns having a taxable valuation of from six hundred thousand dollars ($600,000) to eight hundred thousand dollars ($800,000), *one hundred sixty dollars ($160);*

"Cities and towns having a taxable valuation of from eight hundred thousand dollars ($800,000) to one million dollars ($1,000,000), *two hundred dollars ($200);*

"Cities and towns having a taxable valuation of from one million dollars ($1,000,000) to one million two hundred fifty thousand dollars ($1,250,000), *two hundred forty dollars ($240);*

"Cities and towns having a taxable valuation of from one million two hundred fifty thousand dollars ($1,250,000) to one million five hundred thousand dollars ($1,500,000), *three hundred twenty dollars ($320);*

"Cities and towns having a taxable valuation of from one million five hundred thousand dollars ($1,500,000) to two million dollars ($2,000,000), *four hundred dollars ($400);*

"Cities and towns having a taxable valuation of from two million dollars ($2,000,000) to three million dollars ($3,000,000), *four hundred eighty dollars ($480);*

"Cities and towns having a taxable valuation of from three million dollars ($3,000,000) to four million dollars ($4,000,000), *five hundred sixty dollars ($560)*;

"Cities and towns having a taxable valuation of from four million dollars ($4,000,000) to five million dollars ($5,000,000), *six hundred forty dollars ($640);*

"Cities and towns having a taxable valuation of more than five million dollars ($5,000,000), shall pay *six hundred forty dollars ($640)* plus *fifty dollars ($50)* for each million dollars of taxable valuation or fraction thereof in excess of five million dollars ($5,000,000);

Fees paid to state treasurer.

"The said fees as prescribed shall be paid to the state treasurer regardless of whether or not the state examiner has made an examination of a city or town within the calendar year in which the fee is payable."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1959.

CHAPTER 139

An Act to Amend Section 5-906, Revised Codes of Montana, 1947, Relating to Payments by County Free High Schools, and Fixing Schedule of Payments for Examinations; Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 5-906, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Schedule of fees paid by schools for examination by state examiner.

"5-906. **Payments by county free high schools.** For the credit of the state general fund, each county free high school shall pay to the state treasurer on or before the first day of July of each year a fee according to the following rates:

"County free high schools having a maximum attendance record as shown in the records of the office of the state superintendent of public instruction, according to the following schedule:

"All county free high schools having an attendance of two hundred (200) or less, *sixty dollars ($60);*

"All county free high schools having an attendance of in excess of two hundred (200) and not exceeding three hundred (300), *seventy-five dollars ($75);*

"All county free high schools having an attendance in excess of three hundred (300) and not exceeding four hundred (400), *one hundred dollars ($100);*

"All county free high schools having an attendance in excess of four hundred (400) and not exceeding six hundred (600), *one hundred twenty-five dollars ($125);*

"All county free high schools having an attendance in excess of six hundred (600) and not exceeding one thousand (1,000), *one hundred fifty dollars ($150);*

"All county free high schools having an attendance in excess of one thousand (1,000) and not exceeding fifteen hundred (1,500), *two hundred dollars ($200);*

"All county free high schools having an attendance in excess of fifteen hundred (1,500), *three hundred dollars ($300).*

Fees paid to state treasurer.

"The fees as prescribed shall be paid to the state treasurer regardless of whether or not the state examiner has made an examination of a county free high school within the calendar year in which the fee is payable.

Fees for examining auxiliary funds.

''That the fees for examining auxiliary funds of a county free high school, when requested by the trustees of the said high school, or deemed necessary by the state examiner, shall be based on the fees as set forth in section 5-910.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1959.

CHAPTER 140

An Act to Amend Section 66-817, Revised Codes of Montana, 1947, to Provide Penalties and Injunctive Relief for Practicing Cosmetology Without a License or Teaching Cosmetology Without a License or for Failing to Keep Pricing Agreements as Provided by Section 66-806, Revised Codes of Montana, 1947; and to Make It Unlawful to Violate the Provisions of Sections 66-801, through 66-818, as Amended; and Amending Section 66-815 Revised Codes of Montana, 1947, for the Purpose or Providing for Licensing a Person to Practice Cosmetology and Charging a Fee Therefor; and Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-817 Revised Codes of Montana, 1947, be amended to read as follows:

Prohibited acts of practicing cosmetology without a license.

''66-817. *Prohibited acts*; **penalties**; *injunctive relief.*

A. *It shall be unlawful without an appropriate license issued under the provisions of sections 66-801 through 66-818, Revised Codes of Montana, 1947, as amended to:*

1. *Practice cosmetology for compensation.*

2. *Own, manage, operate or conduct a school of cosmetology.*

3. *Manage or operate a cosmetology shop or beauty parlor.*

4. *Teach in a school of cosmetology.*

5. *Practice manicuring.*

6. *Practice as a finger waver.*

Prohibited acts by licensed cosmetologist.

B. It is unlawful:

1. *For any person who owns, manages or controls a cosmetology shop to employ or use an unlicensed person as a cosmetologist.*

2. *To operate a cosmetology school without complying with all of the regulations of section 66-803, Revised Codes of Montana, 1947.*

3. *To practice cosmetology in any place other than in a licensed establishment as provided in this chapter except when a licensed operator is requested by a customer to go to a place other than a licensed establishment and is sent to such customer from a licensed establishment.*

4. *To violate any of the provisions of sections 66-801 through 66-818, Revised Codes of Montana, 1947, as amended.*

Misdemeanor.

C. *The commission of any of the acts prohibited as provided in sub-sections A and B hereof or the violation of any other provision in section 66-801 through section 66-818, Revised Codes of Montana, 1947, shall be a misdemeanor punishable by a fine or imprisonment or both fine and imprisonment.*

Injunction.

D. *Regardless of any penalties provided in this chapter and as an additional remedy the district courts of the State of Montana are vested with jurisdiction to restrain and enjoin any violation or threatened violation of the requirements of this chapter as a nuisance per se or otherwise and the board, the attorney general or any county attorney may institute proceedings in equity for the purpose of obtaining equitable relief against violations of the provisions of this chapter.*

Section 2. To amend section 66-815, Revised Codes of Montana, 1947, to read as follows: Amending clause.

"66-815. **Fees.** Each applicant for examination to practice or teach shall pay, at the time of such application a fee of ten ($10.00) dollars. *Each person practicing cosmetology as an operator shall pay a fee of three ($3.00) dollars for the issuance of a license, and the further fee of three ($3.00) dollars annually for each renewal thereof.* Each applicant for a manager-operator license shall pay a fee of five ($5.00) dollars, for the issuance of such a license and the further sum of five ($5.00) dollars annually for each renewal thereof. Each person teaching cosmetology shall pay a fee of five ($5.00) dollars, for the issuance of a license, and the further sum of five ($5.00) dollars annually for each renewal thereof. Every person, firm, co-partnership, or corporation, owning, operating or conducting a school of cosmetology shall pay the sum of twenty-five dollars for a certificate of registration therefor, and pay a farther sum of twenty-five ($25.00) dollars annually for each renewal thereof. Each applicant for apprentice license shall pay an annual fee of three ($3.00) dollars. Each applicant for itinerant license as a cosmetologist, shall pay a fee of twenty-five ($25.00) dollars. Such license fees shall be paid annually in advance to the secretary of the board. No other or additional license or fee shall be imposed by any municipal corporation or any other political subdivision of the State of Montana for the practice or teaching of cosmetology." Fees for license.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 5, 1959.

CHAPTER 141

An Act to Amend Section 5-908, Revised Codes of Montana, 1947, Relating to Payments By Banks, Investment and Trust Companies, and Fixing Schedule for Payment for Examinations by State Examiner; Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 5-908, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Schedule of fees for examination of banks and trust companies.

"5-908. **Payments by banks, investment and trust companies.** For the credit of said fund, each bank, trust company or investment company, under the supervision of the superintendent of banks, shall pay to the state treasurer, on or before the first day of July of each year, a fee, based upon its total assets as shown by the statement to the superintendent of banks on the last call report of the preceding year, according to the following rates:

"The minimum fee for the examination of any bank, trust company or investment company shall be the sum of three hundred dollars ($300);

"For the first five million dollars ($5,000,000) of assets, a charge of fifteen cents (15¢) for each one thousand dollars ($1,000) of assets shall be made;

"For the second five million dollars ($5,000,000) of assets, a charge of ten cents (10¢) for each one thousand dollars ($1,000) of assets shall be made;

"For assets in excess of ten million dollars ($10,000,000) but not exceeding twenty million dollars ($20,000,000), a charge of five cents (5¢) for each one thousand dollars ($1,000) of assets shall be made;

"For assets in excess of twenty million dollars ($20,000,000) but not exceeding thirty million dollars ($30,000,000), a charge of three cents (3¢) for each one thousand dollars ($1,000) of assets shall be made;

"For all assets in excess of thirty million dollars ($30,000,000), a charge of two cents (2¢) for each one thousand dollars ($1,000) of assets shall be made."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 5, 1959.

CHAPTER 142

An Act to Amend Section 14-102, Revised Codes of Montana, 1947, Relating to the Incorporation of Credit Union Associations; Providing for the Approval of the State Examiner and ex Officio Superintendent of Banks of Articles of Incorporation of Such Association Before Filing With the Secretary of State; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 14-102, Revised Codes of Montana, 1947, be, and hereby is amended to read as follows:

Incorporation of credit union associations.

"14-102. **Incorporation of credit union association.** Whenever any number of persons not less than five (5) shall desire to incorporate a credit union association having for its object the conduct and operation of such an association as defined in this act they shall prepare and file articles of incorporation to that effect in the manner in this act specified; such articles shall be signed, sealed, and acknowledged in the form now provided by the statutes of this state for the conveyance of real estate and shall include the following:

Name.

1. The name shall not be the same or too closely resembling that in use by any existing corporation established under the laws of this state. The words credit union shall form a part of the name of the association, and no corporation not organized under this act shall be entitled to use a name embodying said combination of words, provided any associations now existing may continue their present names.

Office.

2. The principal office, or place of business of the association shall be designated in said articles and shall be within this state.

Par value.

3. The par value of the shares of the credit union which shall not exceed ten dollars ($10.00) each.

Provision.

4. A provision that such association is organized under this act for the purpose herein expressed.

Incorporators.

5. The names and residences of the persons who subscribe and acknowledge the said declaration, a majority of whom shall be citizens of this state and shall thereafter be called incorporators.

Approval of articles of incorporation.

The articles of incorporation shall be presented to the state examiner and ex officio superintendent of banks with the bylaws of the proposed credit union, and if he finds that the incorporators have complied with this act, he shall attach his written approval to the articles of incorporation.

Filed with secretary of state.

Said articles of incorporation shall then be filed with the secretary of state who, upon payment of the filing fees therefor, shall issue a certificate of incorporation over the great seal of the State of Montana, and a copy thereof, certified by the secretary of state, shall be filed in the office of the county clerk of the county in which the principal place of business of the association is located.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1959.

CHAPTER 143

An Act Relating to Actions for the Partition or Sale of Personal Property; Providing Where Such Actions May Be Brought; and Providing for the Procedure Which Shall Be Made Applicable Thereto; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Procedure for partition of property.

Section 1. When any personal property is owned by two or more persons, any one or more thereof may bring an action, according to the respective rights of the persons interested therein, for the partition of such property, or for a sale of the same, or any part thereof, if it appears that a partition can not be made without great prejudice to the owners. Such action shall be brought in the county wherein said property, or any part thereof, is situated.

Provisions made applicable.

Section 2. The provisions contained in chapter 63 of the Revised Codes of Montana, 1947, which prescribe the manner in which real property may be sold is hereby made applicable to the action which is authorized by section 1, hereof.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1959.

CHAPTER 144

An Act to Amend Sections 93-315 and 93-316 of the Revised Codes of Montana, 1947, Relating to Terms of Court, Court Adjournments, and Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-315 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Terms of court.

"93-315. (8826) **Terms of court.** The district court of each county which is a judicial district by itself has no terms, *and* must be always open for the transaction of business, except on legal holidays and non-judicial days. Juries for the trial of causes must be called *by the judge as often as the public business requires.* In each district where two or more counties are united the judge thereof must fix the term of court in each county in his district, and there must be at least four terms a year in each county. *Any order of the judge of such district fixing terms of court shall be filed in the office of the clerk of the district court in each county of his district, and shall remain in effect until further order of the judge;* provided,

Jury call.

Order filed.

that nothing in this section shall be construed to prevent the calling of a special term of court, with or without a jury, when in the opinion of the presiding judge the same is necessary. The district judge may adjourn a term of district court in one county to a future day certain, and in the meantime hold court in another county."

Amending clause. Section 2. That section 93-316 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Adjournments. "93-316. (8827) **Adjournments — Terms in districts of more than one county.** Adjournments from day to day, or from time to time, are to be construed as recesses in the session or term, and shall not prevent the court from sitting at any time. In districts where two or more counties are united, court may be held, causes tried, with or without a jury, and business transacted in any *and all of the counties of the district continuously and simultaneously, with or without recesses, and without regard to the beginning or ending of any of the terms in any of the counties of the district.* The judge of such district may hold court in one county of such district, try causes, with or without a jury, and transact business, while at the same time court may be held, causes tried, with or without a jury, and business transacted in any other county of such district *by the same judge or* by any other district judge of the state, when requested or assigned thereto *under any of the provisions of the Code or statutes of Montana.*"

Repealing clause. Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1959.

CHAPTER 145

An Act to Amend Section 3-228, Revised Codes of Montana, 1947, Relating to the Licensing of Public Grain Warehousemen by Requiring Public Warehousemen to Carry Insurance Approved by the Commissioner of

Agriculture to Protect the Holders of Warehouse Receipts from Loss; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 3-228, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: **Amending clause.**

''3-228. (3589) **Bond — License and fees of warehousemen, track-buyers and others—Penalty for operating without license.** Each person, firm, corporation or association of persons operating any public warehouse or warehouses subject to the provisions of this act, and every track-buyer, dealer, broker, or commission man, or person or association of persons, merchandising in grain shall, on or before the first day of July of each year, give a bond with good and sufficient sureties to be approved by the commissioner of agriculture to the State of Montana, in such sum as the commissioner may require, conditioned upon the faithful performance of the acts and duties enjoined upon them by the law. **Bond of grain warehouser and dealer.**

''Every person or persons, firm, co-partnership, corporation, or association of persons, operating any public warehouse or warehouses, and every track-buyer, dealer, broker, commission man, person or association of persons merchandising grain in the State of Montana, shall, on or before the first day of July of each year, pay to the state treasurer of Montana a license fee in the sum of fifteen ($15.00) dollars for each and every warehouse, elevator, or other place, owned, conducted, or operated by such person or persons, firm, co-partnership, corporation or association of persons, where grain is received, stored and shipped, and upon the payment of such fee of fifteen ($15.00) dollars for each and every warehouse, elevator or other place, where grain is merchandised within the State of Montana, the commissioner of agriculture shall issue to such person or persons, firm, copartnership, corporation or association of persons, a license to engage in grain merchandising at the place designated within the State of Montana, for a period of one (1) year. Any person, firm, association or corporation who shall engage in or carry on any business or occupation for which a license is required by this act **Fee and license.** **Penalty.**

without first having procured a license therefor, or who shall continue to engage in or carry on any such business or occupation after such license has been revoked (save only that a public warehouseman shall be permitted to deliver grain previously stored with him), shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five ($25.00) dollars nor more than one hundred ($100.00) dollars, and each and every day that such business or occupation is so carried on or engaged in shall be a separate offense.

Misdemeanor.

Adequate insurance.

Penalty.

"In addition to the bond and license fee, a public warehouseman shall carry adequate insurance approved by the commissioner of agriculture to protect the holders of warehouse receipts from loss. A public warehouseman license shall not be issued or may be revoked for failure to comply with this insurance requirement."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1959.

CHAPTER 146

An Act to Amend Section 75-1633 of the Revised Codes of Montana of 1947, Relating to the Use of School Rooms for Adult Education Schools or Classes and Providing for a Tax Levy Not In Excess of One (1) Mill by the Board of County Commissioners on Property for This Purpose Made In the Same Manner As Tax Levies for Elementary and Secondary Schools or Classes; Providing That All Acts and Parts of Acts In Conflict Herewith Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1633 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Use of school rooms for adult education.

"75-1633. **Use of school rooms for adult education classes—Tax levy.** The board of trustees of any school district or of any county high school is authorized to permit the use of school rooms for adult education, schools or classes for all adults sixteen (16) years of age or over, and if any school district is desirous of raising money to help effect the purpose of this act, the board of county commissioners may levy a tax of not to exceed one (1) mill on the dollar of all taxable property, real and personal, within the district, in addition to all other levies for school purposes, for the support and maintenance of such adult education, schools or classes, provided *such schools or classes have been first approved by the state superintendent of public instruction.*"

Tax levy.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 7, 1959.

CHAPTER 147

An Act to Amend Section 75-4609 of the Revised Codes of Montana, 1947, as Amended by Section 2, Chapter 120, Session Laws of the Thirty-third Legislative Assembly of Montana, 1953, Relating to Voting Special Levies on High School Districts; Providing That Said Special Levies May Be Voted for the Purpose of, Altering, Repairing or Enlarging Any High School or High Schools of Said District or for Proper Maintenance and Operation of the High Schools of Said District Or for Acquisition of Land for High School Purposes; Repealing All Acts and Parts of Acts In Conflict Herewith; Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-4609 of the Revised Codes of Montana, 1947, as amended by section 2, chapter 120, Session Laws of the Thirty-third Legislative Assembly of Montana, 1953, be amended to read as follows:

Amending clause.

"75-4609. **Special tax levy—Election.** Whenever the board of trustees of the local school district within which the high school is situated shall deem it necessary to raise

Procedure for special tax levy school district election.

money for high school purposes in addition to its revenues from county and state apportionments, a meeting of the board of trustees of the high school district together with the chairmen of the boards of trustees of all common school districts included within the high school district shall be called and held to consider the calling of an election to vote upon the question of approving a special levy for high school purposes. Provided, that any other member designated by the board of trustees of any such common school district may represent such district in place of the chairman thereof. If a majority of the board of trustees of the high school district and the designated representatives of said common school districts attending such meeting shall determine that the proposed expenditures are necessary for *the purposes of, altering, repairing or enlarging any high school or high schools of said district or for proper maintenance and operation of the high schools of said district or for acquisition of land for high school purposes,* said trustees of the high school district shall ascertain and determine the number of mills required to be raised by special levy, and shall call an election for the purpose of submitting the question of making such additional levy to the qualified electors who are taxpayers upon property within the high school district, and if approved by a majority vote of all the taxpayers voting at such election, the result of said election shall be certified to the board of county commissioners, and the levy approved by such majority vote shall be made upon all property within said high school district.''

Repealing clause. Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately. Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1959.

CHAPTER 148

An Act to Provide for Emergency Succession to the Office of Governor in the Event of Enemy Attack Upon the United States and to Provide for Selection of an Emergency Seat of Government in Case of Such Attack; Providing for a Repealing Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Duty of chairman of board of county commissioners in event of enemy attack.

Section 1. If, because of an enemy attack upon the United States, the governor, lieutenant governor, president pro tempore of the senate and speaker of the house are killed or rendered unable to serve as governor, the chairman of the board of county commissioners of the state's most populous county, as determined by the last preceding official United States census shall have the power and it shall be his duty forthwith to call an emergency session of the state senate at any safe location within the state for the purpose of electing a president pro tempore who shall then assume the office of governor. Should such chairman of the board of county commissioners of the most populous county be dead or unable to act, the chairman of the board of the next most populous county shall exercise the power granted by this section.

Temporary seat of government.

Section 2. If, because of an enemy attack upon the United States, the city of Helena should be rendered unsafe, the governor may designate any safe location within the state as an emergency temporary seat of government until such time as the city of Helena is again safe for occupancy.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect immediately after its passage and approval.

Approved March 7, 1959.

CHAPTER 149

An Act to Amend Sections 69-2802, 69-2803, and 69-2804 of the Revised Codes of Montana, 1947, as Amended, Relating to the Licensing and Regulation of Refrigerated Lockers to Provide for the Definition, Licensing and Regulation of Frozen Food Processing Plants; to Provide for the Repeal of Section 69-2814 of the Revised Codes of Montana, 1947, and All Other Acts or Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 69-2802 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows:

Definitions.

"69-2802. **Definitions.** Except where the context indicates a different meaning, terms used in this act shall be defined as follows:

"Refrigerated locker" or "locker."

"(a) 'Refrigerated locker' or 'locker' means any place, premises or establishment where facilities for the cold storage and preservation of human food in separate and individual compartments are offered to the public upon a rental or other basis providing compensation to the person offering such services.

"Frozen food processing plant."

"(b) *'Frozen food processing plant' means a location or establishment in which freezing facilities are used to freeze meat or meat products, fruits, vegetables, or any other foods for delivery to and frozen storage by the ultimate consumer and which has one (1) or more of the following facilities: a slaughterhouse; a chill room; facilities for cutting, blanching, preparing, wrapping and packaging meat and meat products, fruits, vegetables, or any other food*; *a refrigerated holding room for storing frozen meat or meat products, fruits, vegetables, or any other food prior to delivery to the ultimate consumer; and shall include all attached or detached buildings, rooms, open or enclosed spaces under the control of the operator and used in any capacity in connection with the operation of the plant; providing that when this subsection is applicable to any meat market paying a fee and licensed by the state board of health under other provisions of law said meat market shall be exempt from the payment of the license fee under section 69-2804, Revised Codes of Montana, 1947, but shall otherwise comply with provisions of this act and the rules and regulations promulgated thereunder.*

"Person."

"(c) 'Person' includes any individual, partnership,

corporation, association, county, municipality, cooperative group, or other entity engaging in the business of operating or owning or offering the services of refrigerated lockers *or frozen food processing plants* as above-defined.

"Board."

"*(d)* The term 'board' means the state board of health of the State of Montana."

Amending caluse.

Section 2. That section 69-2803 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows:

License required.

"69-2803. **License required.** No person hereafter shall engage within this state in the business of owning, operating or offering the services of any refrigerated locker or lockers *or any frozen food processing plant or plants* without having obtained from the board a license for each such place of business. Application for such license shall be made in writing and under oath to the board, on such forms and with such pertinent information as it may deem necessary. Such licenses shall be granted as a matter of right, unless conditions exist which are grounds for a cancellation or revocation of a license as hereinafter set forth, and subject to the right of applicant for license to hearing and judicial review as hereinafter set forth."

Amending clause.

Section 3. That section 69-2804 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows:

Fees.

"69-2804. **Fee—Term of license.** (a) There shall be paid to the board with each application for *such* license or for renewal of such license an annual license fee of ten dollars ($10.00).

"(b) Each such license shall expire on December 31st following its date of issue, unless sooner revoked for cause. Renewal may be obtained annually by paying the required annual license fee. Such license fee shall not be transferable to any person nor be applicable to any location other than that for which originally issued. Application made after July 1st of each year shall be entitled to such license for the remainder of the year on payment of a fee of five dollars ($5.00)."

Repealing clause.

Section 4. That section 69-2814 of the Revised Codes

of Montana, 1947, and all other acts and parts of acts in conflict herewith be, and the same are hereby repealed.

Approved March 7, 1959.

CHAPTER 150

An Act to Amend Section 16-1008A, as Amended, of the Revised Codes of Montana, 1947, Relating to Erection and Management of County Buildings; Civic Centers; Youth Centers, Park Buildings, Museums, Recreation Centers, Hospitals; and Other Improvements by Commission to Provide for the Inclusion of County Parks Within the Purview of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-1008A, as amended, of the Revised Codes of Montana, 1947, be, and the same is hereby amended as follows:

Power of board of county commissioners to erect and manage county buildings and improvements.

''16-1008A. (4465.8) **Erection and management of county buildings and other improvements.** The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law: To cause to be erected, furnished and maintained a courthouse, jail, hospital, civic center, youth center, park buildings, museums, recreation centers, and any combination thereof, and such other public buildings as may be necessary.

Power to create commission to manage.

''The board of county commissioners shall have the power in their discretion to create a commission for the management of such civic center, youth center, park buildings, museums, *county parks,* recreation centers, hospitals, or any combination of two (2) or more thereof. Such commission shall be composed of the senior district court judge of the county, chairman of the board of county commissioners, the chairman of the school board for the district in which any of the above-named buildings are situated, and the mayor of the city in such district, and five (5) lay members to be appointed by the senior district court judge, the chairman of the board of county commissioners, the chairman of the school board for the district in which any of the above-named buildings are situated, and the mayor of the city in such district, and their terms of office shall be respectively one (1) for one (1), two (2) for two (2), and two (2) for three (3) years, and on the expiration of such terms of one (1), two (2) and three (3) years, their successors shall hold for three (3) years each, and all of the above persons shall serve without compensation. In cases where a commission has been appointed, the commission together with the board of county commissioners shall have the power to employ a manager.

Terms of office.

County hospital for indigent sick.

"A county hospital so erected and furnished may be used for the hospitalization of the indigent sick of the county. Any county hospital which has heretofore been, or which may hereafter be, erected and furnished under the provisions of this act may also be used for the hospitalization of the nonindigent sick, provided said nonindigent sick pay a reasonable fee for such hospitalization, and provided further that, except in cases of emergency, there are no indigent sick needing hospitalization who would be deprived of hospitalization by reason of the use of said hospital facilities by nonindigents. The board of county commissioners of any county of this state which now has, or may hereafter acquire, title to a site and building, or buildings, suitable for county hospital purposes, shall have jurisdiction and power under such limitations and restrictions as are prescribed by law to furnish and equip such building, or buildings, for hospital purposes in accordance with and as provided by the provisions of this act."

Approved March 7, 1959.

CHAPTER 151

An Act to Amend Section 69-1328, Revised Codes of Montana, 1947, Enacted as Chapter 142, Session Laws of the Thirty-fourth Legislative Assembly of Montana, 1955, Relating to Definitions; Providing that New Industry or Sewerage System Discharging Industrial or Other Wastes Into Waters Excepted from the Act Be Required to Maintain the Classification Established by the Council at the Point of Discharge and Downstream from the Discharge of Such Wastes; Containing a Repealing Clause; Providing an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 69-1328 of the Revised Codes of Montana, 1947, as enacted by chapter 142, Session Laws of the Thirty-fourth Legislative Assembly of Montana, 1955, be and the same is hereby amended to read as follows:

Definitions.

"Sewage."

''69-1328. **Definitions.** For the purpose of this act, the following words and phrases shall have the meanings ascribed to them in this section: (a) 'Sewage' means the water-carried waste products from the residences, public buildings, institutions or other buildings, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present. The provisions of this act shall not apply to the excrementitious discharges of domestic and farm animals providing human health is not involved.

"Industrial waste."

(b) 'Industrial waste' means any liquid, gaseous or solid waste substances resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource, together with such sewage as may be present, which may pollute the waters of the state.

"Other wastes."

(c) 'Other wastes' means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, tar, chemicals and all other substances which may pollute the waters of the state.

"Contamination."

(d) 'Contamination' means an impairment of the qualities of the waters of the state by sewage or industrial wastes to a degree which creates a hazard to human health.

"Pollution."

(e) 'Pollution' as used in this act shall mean the alteration of the physical, chemical or biological properties of any waters of the state which renders said waters harmful or detrimental for their most beneficial uses and over which the authority of the state board of health as vested by title 69, chapter 13 of the Revised Codes of Montana, 1947, as herein amended, does not extend, except that no waters not now being used for human consumption as a single public supply system serving more than one hundred (100) persons shall be classified other than for industrial waste use where the same have been primarily and continuously devoted to industrial waste use except for seasonal variations for a period of over thirty (30) years. *Provided, however, that new industry or sewerage system discharging industrial or other wastes into waters excepted by paragraphs (e) and (i) from the provisions of this act shall be required to maintain the classification established by the council at the point of discharge and downstream on such waters.* Where waters have been classified or standards established pursuant to this act, any discharge which is not in accord with such classification or standards shall be deemed to be pollution.

Proviso—new industry or sewerage system.

(f) 'Sewerage system' means pipe lines or conduits, pumping stations, and force mains, and all other construction, devices, and appliances appurtenant thereto, used for collecting or conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

"Sewerage system."

(g) 'Treatment works' means any plant, disposal field, lagoon, dam, pumping station, incinerator, or other words not specifically mentioned herein, installed for the purpose of treating, stabilizing or holding sewage, industrial waste, or other wastes.

"Treatment works."

(h) 'Disposal system' means a system for disposing of sewage, industrial waste or other wastes, and includes sewerage systems and treatment works.

"Disposal system."

(i) 'Waters of the state' means all streams and lakes, including all rivers and lakes bordering on the state, wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems and other bodies of water, surface and underground, natural or artificial, publicly or privately owned. Provided, however, that unless drainage or seepage from artificial, privately owned bodies of water reaches flowing streams of the state in such condition as to pollute such flowing waters, the provisions of this act shall not apply to artificial, privately owned waters; and provided further, the provisions of this act shall not apply to any waters of the state not reasonably suitable for

"Waters of the state."

domestic or public water supply for human consumption at the time of the passage of this act.

"Person."

(j) 'Person' means the state or any instrumentality thereof, any municipality, political subdivision, institution, public or private corporation, partnership, individual, or other entity."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall take effect and be in full force from and after its passage and approval.

Approved March 7, 1959.

CHAPTER 152

An Act to Amend Section 71-509, Revised Codes of Montana, 1947, Replacement Volume Four (4), Relating to the Periodic Reconsideration and Changes in Amount of Assistance Under the Public Welfare Act, Part 4—Aid to Needy Dependent Children, Providing that Needy Dependent Children Who Are Enrolled Members of the Recognized Indian Tribes May Receive Not to Exceed One Hundred Dollars ($100.00) in Any One (1) Calendar Year, as Per Capita Payment from Tribal Lands or Tribal Profits, Without Affecting the Amount of Their Assistance; and Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 71-509, Revised Codes of Montana, 1947, replacement volume four (4), be, and the same is hereby amended to read as follows:

Periodic reconsideration of assistance to needy Indian children.

"71-509. **Periodic reconsideration and changes in amount of assistance.** All assistance grants made under this part shall be reconsidered by the county department as frequently as may be required by the rules of the state department. After such further investigation as the county department may deem necessary or the state department may require, the amount of assistance may be changed or assistance may be entirely withdrawn if the state or county departments find that the child's circumstances have altered sufficiently to warrant such action. *Providing however, when federal law or regulations permit that any amount in a sum not exceeding one hundred dollars ($100.00) in any one (1) calendar year received by an enrolled member of a recognized Indian tribe as per capita payments or a share in the profits and receipts from tribal lands and interests or tribal enterprises shall not be used to decrease the amount of assistance received under this act.*"

Federal law not used to decrease.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 7, 1959.

CHAPTER 153

An Act to Amend Section 71-607, Revised Codes of Montana, 1947, Replacement Volume Four (4), Relating to the County Welfare Board and Providing That the Amount of Assistance to a Needy Blind Person Shall Be Determined By the County Welfare Board; Providing That Needy Blind Recipients Who Are Enrolled Members of the Recognized Indian Tribes May Receive Not to Exceed One Hundred Dollars ($100.00) in Any One (1) Calendar Year, as Per Capita Payment from Tribal Lands, or Tribal Profits, Without Affecting the Amount of Their Assistance; Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 71-607, Revised Codes of Montana, 1947, replacement volume four (4), be, and the same is hereby amended to read as follows:

Amending clause.

"71-607. **Investigation of applications.** Whenever a county public welfare department receives an application for assistance under this chapter an investigation shall be promptly made. The investigation of each application for aid to needy blind shall be conducted by the county board through a staff worker of the county

Investigation of applications for county assistance to needy blind.

department. Each applicant shall be informed of his right to a fair hearing and of the confidential nature of information secured with regard to his circumstances. Upon completion of such investigation the county welfare board shall determine whether the applicant is eligible for and should receive a grant and the amount of the assistance. Aid shall be furnished promptly to all eligible persons. Each applicant shall receive written notice of the decision concerning his application, *providing however when federal law or regulations permit that any amount in a sum not exceeding one hundred dollars ($100.00) in any one (1) calendar year received by an enrolled member of a recognized Indian tribe as per capita payments or a share in the profits and receipts from tribal lands and interests or tribal enterprises shall not be used to decrease the amount of assistance received under this act.*"

Federal law not to decrease amount.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 154

An Act Repealing Section 93-1501-7, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 113, Laws of the Thirty-first Legislative Assembly of the State of Montana Relating to When a Witness Is Not Compelled to Attend Pursuant to Subpoena.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That section 93-1501-7, Revised Codes of Montana, 1947, as amended by section 1, chapter 113, Laws of the Thirty-first Legislative Assembly of the State of Montana, be, and the same is hereby repealed.

Approved March 7, 1959.

CHAPTER 155

An Act Providing for Compensation of Workingmen for Disability Or Death Resulting from Occupational Diseases; Providing that This Act Shall Be Known as "The Occupational Disease Act of Montana"; Providing that This Act Shall Be Administered by the Industrial Accident Board; Providing for Definitions; Defining Occupational Diseases; Determining Proximate Causation; Providing for the Coverage of Certain Employers and Employees; Establishing Those Subject to This Act; Providing for the Liability of Last Employer and Exceptions; Providing that Right to Recover Compensation Pursuant to Provisions of This Act Shall Be the Exclusive Remedy Therefor Against the Employer Bound by This Act; Providing for Employee's Right to Reject This Act; Providing for Payment of Compensation, Exceptions and Limitations; Providing for Time and Manner for Filing Claims; Providing for Notice of Disability or Death; Providing for Medical Plan, Medical Committee and Pulmonary Specialists; Establishing Procedure for Medical Examination of Claimant; Providing for Autopsy; Providing that Compensation Payments for Disability or Death Caused by an Occupational Disease Shall Be the Same as Compensation Payments for Temporary Total and Permanent Total Disability and for Injuries Causing Death Under the Montana Workmen's Compensation Act; Providing for Burial Expense; Providing for Medical and Hospital Expense; Defining Aggravation and Prorating Benefits Thereunder; Providing for Compensation for Disability or Death from Silicosis Complicated by Pulmonary Diseases; Providing for Periodic Medical Examinations; Providing for Compensation Plans and for the Creation of the Occupational Disease Compensation Fund; Establishing When Common Law Defenses Are Not Available; Providing for the Payment of Benefits in the Event Employee is Discharged Under Certain Conditions; Establishing Penalty for False Representation by Employer; Prohibiting Lump-Sum Settlements and Providing for Payment of Attorney Fees; Providing for Limitation of Employee Liability in Certain Cases and Prohibiting Waivers; Providing a Date When Compensation Payments Under This Act Begin; Providing Penalties for Violation of This Act; Providing for Time and Manner of Payments; Providing for Payment to Guardian of Child Under Eighteen (18) Years of Age; Providing for Procedure to be Followed by the Board; Providing for Right of Appeal to Courts; Providing Certain Administerial Powers of Board; Providing for Records, and Copies of Evidence; Providing That Books, Records and Payroll of Employers Shall be Open to Inspection by Board; Providing for Jurisdiction of Board to Hear Disputes and Controversies; Providing for Hearings, Findings, and Awards by the Board; Prohibiting Persons Receiving Compensation or Benefits Under Part Nine (9) of the Public Welfare Act of the State of Montana from Receiving Benefits Under This Act; Providing for the Diminution of Payments Under This Act Where Claimant, His Beneficiaries, or His Dependents Are Receiving Benefits Under the Workmen's Compensation Act of Montana or Any Other State; Providing That Wilful Misconduct, Wilful Self-Exposure, or Wilful Disobedience of Orders of the Board Shall Bar Right to Benefits Under This Act; Prohibiting Assignment of Compensation Benefits or Attachment of Benefit Payments; Providing for Payment of Medical Examination and Autopsy Expenses; Prohibiting the Vesting of Rights to Compensation Awarded Under This Act and Reserving Unto the State the Right to Reduce the Rate or Amount of Compensation to be Received by Any Person; Providing for a Repealing Clause; Providing That This Act Shall be Liberally Construed; and Repealing All Acts and Parts of Acts in Conflict Herewith; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

The occupational disease act of Montana.

Section 1. This act shall be known as "The Occupational Disease Act of Montana."

Administered by industrial accident board.

Section 2. This act shall be administered by the industrial accident board of the State of Montana. The members of the industrial accident board shall receive no additional compensation for administering this act. The actual and necessary traveling expenses of the members of the board while on business of administering this act shall be paid from the occupational disease compensation fund.

Definitions.

Section 3. **Definitions.** Except as in this section and elsewhere in this act expressly set forth, the definitions contained in the workmen's compensation act shall apply to terms and words herein contained.

"Weekly wage."

1. ''Weekly wage'' means the average of the weekly earnings of the employee in the employ of his employer against whom compensation is awarded during the period of one year prior to the termination of his employment with such employer, or during such lesser period in such year as he has been in the employ of his employer. In case the employee is absent from employment during the period as a result of the occupational disease for which compensation is claimed, then the week or weeks in which the absence occurs shall not be included in the computation of the average weekly wage. If the period provided in this section for computation of the average weekly wage does not include four weeks, then the average weekly wage shall be such as, having regard to the previous wage of the employee, or of other employees of the same or most similar class working in the same or most similar employment in the same or neighboring locality, reasonably represents the weekly earning capacity of the disabled employee in the employment in which he is working at the time of his disablement.

"Award."

2. ''Award'' means the finding or decision of the board as to the amount of compensation due any disabled employee or the dependents of any deceased employee.

"Board."

3. ''Board'' means the industrial accident board of the State of Montana.

"Compensation."

4. ''Compensation'' means the payments and benefits provided in this act.

"Disablement."

5. ''Disablement'' means the event of becoming physically incapacitated by reason of an occupational disease as defined in this act from performing any work for remuneration or profit. ''Silicosis,'' as defined in this act, when complicated by active pulmonary tuberculosis, shall be presumed to be total disablement. ''Disability,'' ''disabled,'' ''total disability,'' or ''totally disabled'' shall be synonymous with ''disablement,'' but they shall have no reference to ''partial permanent disability.''

"Employee," "workman," "operative."

6. The terms "employee," "workman," and "operative," as used herein, shall mean:

Every person in the service of the state, and of a county, city, town, municipal corporation, or school district, including the regular members of lawfully constituted police and fire departments of cities and towns.

Every person in the service of any employer subject to this act as hereinafter defined or to whom such employer is required to secure compensation under this act, including aliens and minors legally or illegally permitted to work for hire, but not including a person whose employment is casual and is not in the usual course of trade, business, or occupation of the employer, and not including agricultural workers and domestic servants unless the employer shall so elect.

"Beneficiary."

7. "Beneficiary" means and shall include a surviving wife or husband and a surviving child or children under the age of eighteen (18) years and an invalid child or invalid children over the age of eighteen (18) years, or if no surviving wife or husband then a surviving child or children under the age of eighteen (18) years and an invalid child or invalid children over the age of eighteen (18) years; provided, however, that no invalid child over the age of eighteen (18) years shall be considered a beneficiary unless dependent upon the decedent for support at the time of disablement.

"Major dependent."

8. "Major dependent" means if there be no beneficiary as defined in a preceding section, the father or mother, or the survivor of them, if actually dependent upon the decedent at the time of his disablement, then to the extent of such dependency, not to exceed, however, the maximum compensation provided for in this act.

"Minor dependent."

9. "Minor dependent" means if there be no beneficiary or major dependent as defined in the preceding sections the brothers and sisters under the age of eighteen years, provided, however, that no invalid brother or invalid sister over the age of eighteen years shall be a "minor dependent" unless actually dependent upon the decedent at the time of his disablement. Minor dependents shall be awarded compensations to the extent of such

dependency, not to exceed, however, the maximum compensation provided for in this act.

"Invalid."

10. ''Invalid'' means one who is physically or mentally incapacitated.

"Child."

11. ''Child'' shall include a posthumous child, a stepchild, a child legally adopted prior to the disablement, an illegitimate child legitimized prior to the disablement.

"Week."

12. ''Week'' means six (6) working days, but includes Sundays.

"Wages."

13. ''Wages'' means the average daily wages received by the employee at the time of the disablement for the usual hours of employment in a day, and overtime is not to be considered.

"Wife" or "widow."

14. ''Wife'' or ''widow'' means only a wife or widow living with, or legally entitled to be supported by the deceased at the time of the disablement.

"Husband" or "widower."

15. ''Husband'' or ''widower'' means only a husband or widower incapable of supporting himself, and living with, or legally entitled to be supported by the deceased at the time of her disablement.

"Commissioner."

16. ''Commissioner'' means one (1) of the members of the industrial accident board.

"Appointed member of the board."

17. ''Appointed member of the board'' means that member of the industrial accident board appointed by the governor.

"Order."

18. ''Order'' shall mean and include any decision, rule, regulation, direction, requirement, or standard of the board, or any other determination arrived at or decision made by such board, excepting general or local orders as herein specified.

"Payroll," "annual payroll."

19. ''Payroll,'' ''annual payroll'' or ''annual payroll for the preceding year,'' means the average annual payroll of the employer for the preceding calendar year, or, if the employer shall not have operated a sufficient or any length of time during such calendar year, twelve (12) times the average monthly payroll for the current year; provided, that an estimate may be made by the board for any employer starting in business where no average payrolls are available, such estimate to be adjusted by addi-

tional payment by the employer or refund by the board, as the case may actually be on December 31st of such current year.

"Year."

20. "Year," unless otherwise specified, means calendar year. "Fiscal year" means the period of time between the first day of July and the thirtieth (30th) day of the succeeding June.

"Insurer."

21. "Insurer" means any insurance company authorized to transact business in this state insuring any employer under this act.

"Casual employment."

22. "Casual employment" means employment not in the usual course of trade, business, profession, or occupation of the employer.

"Physician," "surgeon."

23. The term "physician" shall include "surgeon," and in either case shall mean one authorized by law to practice his profession in this state.

Singular includes plural and vice versa.

24. Wherever the singular is used the plural shall be included, and wherever the plural is used the singular shall be included.

Masculine gender includes feminine and neuter.

25. Wherever the masculine gender is used, the feminine and neuter shall be included.

"Silicosis."

26. For the purpose of this act "silicosis" is defined as a chronic disease of the lungs caused by the prolonged inhalation of silicon dioxide (SiO^2) characterized by small discrete nodules of fibrous tissue similarly disseminated throughout both lungs, causing characteristic x-ray pattern, and by variable clinical manifestations.

"Workshift."

27. "Workshift" means the work for which an employee is paid a day's wages.

"Workmen's compensation act."

28. "Workmen's Compensation Act" means the workmen's compensation act of the State of Montana.

List of occupational diseases.

Section 4. **Occupational disease.** The following diseases only shall be termed occupational diseases.

1. Silicosis
2. Poisoning by
   (a) Arsenic or its compounds.
   (b) Antimony or its compounds.

(c) Cadmium or its compounds.
(d) Chrome or its compounds.
(e) Lead or its compounds.
(f) Manganese or its compounds.
(g) Mercury or its compounds.
(h) Phosphorous or its compounds.
(i) Selenium or its compounds.
(j) Vanadium or its compounds.
(k) Zinc or its compounds.
(l) Sulphur or its compounds.
(m) Copper or its compounds.
(n) Benzine or its derivatives.
(o) Benzol or its derivatives.
(p) Hydro-carbons.
(q) Carbon derivatives.
(r) Carbon tetrachloride.

3. Tamarack poisoning.

4. Anthrax caused by handling of wool, hair, bristles, hides or skins.

5. Poisoning or disease due to exposure to x-ray or radioactive substances.

6. Provided, however, that regardless of the specific listings, heretofore, any employer who so elects may insure against disablement by other diseases arising out of or contracted from and in the course of their employment if such insurance has been approved by the board.

Proximate cause of employment.

Section 5. **Proximate causation.** The occupational diseases defined by the preceding section shall be deemed to arise out of the employment only if:

1. There is a direct causal connection between the conditions under which the work is performed and the occupational disease.

2. The disease can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment.

3. The disease can be fairly traced to the employment as the proximate cause.

4. The disease does not come from a hazard to which workmen would have been equally exposed outside of the employment.

5. The disease is incidental to the character of the business and not independent of the relation of employer and employee.

"Regularly employed."

Section 6. **Regular employees and subcontractors.** The term "regularly employed," as herein used, includes all employments, whether continuous throughout the year or for only a portion of the year, in the usual trade, business, profession or occupation of an employer. Where an employer procures work to be done for him by a contractor over whose work he retains supervision or control, and such work is a part or process in the trade or business of the employer, then such contractor and the person employed by the subcontractor, are, within the meaning of this section, employees of the original employer. A person engaged in work for another, and who, while so engaged is independent of the employer in the execution of the work, not subject to the rule or control of the person for whom the work is done, but engaged only in the performance of a definite job or piece of work, and subordinate to the employer only in effecting a result in accordance with the employer's design, is an independent contractor and an employer within the meaning hereof.

Act applies to all employers and employees subject to workmen's compensation act.

Section 7. **Who subject to act.** This act shall apply to, and only to, all employers and employees who now are or hereafter will be subject to the provisions of the workmen's compensation act of the State of Montana. The practice and procedure prescribed in such workmen's compensation act shall apply to all proceedings under this occupational disease act, except as hereinafter otherwise provided.

Compensation exclusive remedy.

Section 8. **Right to compensation exclusive remedy.** The right to recover compensation pursuant to the provisions of this act for occupational diseases sustained by an employee and arising out of and in the course of his employment, whether resulting in death, or not, shall be the exclusive remedy therefor against the employer electing to be bound by and subject to this act, except as to such employees as shall reject this act as provided herein.

Notice of employees' right to reject act.

Section 9. **Notice of employees' right to reject occupational disease compensation act:** Every employer subject to the provisions of this act shall post and keep posted in a conspicuous place upon his premises in languages, including English, as are from time to time designated by the board, a notice available for inspection by all his employees in substantially the following form:

Deemed to have accepted.

"All employees are hereby notified that in the event they do not specifically reject the provisions of the occupational disease act of Montana, they are deemed by the laws of Montana to have accepted the provisions of such act and to have elected to accept compensation under the terms of said act, and that under the terms thereof employees have the right to reject the same by written notice thereof within ten days after entering the employ of this employer or after the first posting of this notice, whichever shall be the later; provided, however, it shall be unlawful for any such employer to require as a condition of employment the rejection of the provisions of this act, and any rejection which is the result of any such condition or requirement shall be void and of no effect."

Liability of last employer.

Section 10. **Liability of last employer, exception.** Where compensation is payable for an occupational disease the only employer liable shall be the employer in whose employment the employee was last injuriously exposed to the hazard of such disease, but in the case of silicosis the only employer liable shall be the employer in whose employment the employee was last exposed to harmful quantities of silicon dioxide (SiO_2) dust for a period of ninety (90) actual workshifts or more after July 1, 1958.

Section 11. **Payment of compensation; exceptions and limitations.**

Payment on conditions.

A. Compensation shall be paid to every employee who becomes disabled by reason of occupational disease arising out of his employment, subject to the following conditions; and when claims are presented and notices given in accordance with the limitations of sections 12 and 13 of this act.

Exposure prior to effective date of this act.

1. No compensation shall be paid when the last day of the injurious exposure of the employee to the hazard

of the occupational disease has occurred prior to the effective date of this act except as in section 11, paragraph "A," subparagraph 4 provided.

Total disability within 120 days of end of employment except silicosis.

2. No compensation shall be paid for a disease other than silicosis unless total disability results within one hundred twenty (120) days from the last day upon which the employee actually worked for the employer against whom compensation is claimed; provided that the board upon good cause shown may waive this limitation in the interest of justice, but in any case said period may not be extended to more than one year from the date of last employment by the said employer.

Waiver to one year.

Condition for payment for silicosis.

3. No compensation shall be paid in case of silicosis unless during the eight years immediately preceding the disablement the injured employee has been exposed to harmful quantities of silicon dioxide dust for a total period of not less than one thousand (1,000) work shifts in employment in this state and unless total disability results within four years from the last day upon which the employee actually worked for the employer against whom compensation is claimed.

Proviso— for silicotic discharged to escape liability.

4. Provided, however, that any silicotic employee who is discharged by his employer to escape liability for silicosis benefits under this act shall be eligible to receive compensation under this act when totally disabled if he has seven hundred (700) actual workshifts since January 1, 1954 for that employer, provided, further, when any employee in employment on or after January 1, 1959, because he has an occupational disease incurred in and caused by such employment, which is not yet disabling, is discharged or transferred from the employment in which he is engaged, or when an employee ceases such employment and it is in fact, as determined by the medical panel, inadvisable for him on account of such nondisabling occupational disease, to continue in it, and suffers wage loss by reason of such discharge, transfer, or such cessation, the board may allow compensation on account thereof as it may deem just, not exceeding five thousand dollars ($5,000.00).

Limitation $5,000.

Filing required.

5. No claim shall be maintained nor compensation paid unless the claim has been filed with the employer,

the insurer, of the board, in writing under oath within the time fixed by section 12 of this act.

Payment in event of death.

B. The compensation shall be paid to the beneficiary and dependents of every employee covered by this act in cases where death results from an occupational disease arising out of his employment subject to the following conditions:

Exposure prior to effective date.

1. No compensation shall be paid when the last day of injurious exposure of the employee to the hazards of the occupational diseases has occurred prior to the effective date of this act, except as in section 11, paragraph "A," subparagraph 4 of this act provided.

Payment for death from silicosis.

2. No compensation shall be paid for death from silicosis unless during the eight years immediately preceding the disablement the deceased employee has been exposed to harmful quantities of silicon dioxide dust for a period of not less than one thousand (1,000) work shifts in employment in this state.

Death within four years.

Death within seven years.

3. No compensation shall be paid for death from silicosis unless the death results within four (4) years from the last day upon which the employee actually worked for the employer against whom compensation is claimed, except in those cases where death results during a period of continuous total disability from silicosis for which compensation has been paid or awarded, or for which a claim, compensable but for such death, is on file with the commission. In such cases compensation shall be paid if death results within seven (7) years from the last day upon which the employee actually worked for the employer against whom compensation is claimed.

Payment in event of death from other than silicosis.

4. No compensation shall be paid for death from any occupational disease other than silicosis unless death results within one (1) year from the last day upon which the employee actually worked for the employer against whom compensation is claimed, except in those cases where death results during a period of continuous total disability from an occupational disease other than silicosis for which compensation has been paid or awarded, or for which a claim, compensable but for such death, is on file with the board. In such cases compensation shall be paid if death results within three (3) years from

the last day upon which the employee actually worked for the employer against whom compensation is claimed.

Filing of claim required.

5. No claim shall be maintained nor compensation paid unless the claim has been filed with the employer, the insurer or the board, as the case may be in writing within the time fixed by section 12 of this act.

Proof.

C. Proof of the exposure to silicon dioxide dust for a period of not less than one thousand two hundred (1,200) work shifts in employment in this state, with proof of total disability from silicosis, shall be prima facie evidence of exposure to harmful quantities of such dust during all such period.

Claims must be presented within time.

Section 12. **Claims must be presented within what time.** The provisions of section 92-601 Revised Codes of Montana, 1947, as amended, shall not apply to claims filed under this act.

It is hereby provided in the case of disability resulting from occupational diseases as herein defined, including silicosis, that all claims therefor shall be forever barred unless the same shall be presented in writing under oath to the employer, the insurer or the board as the case may be within thirty (30) days after claimant has filed his notice of disability as provided in section 13 of this act. In the case of death from an occupational disease, as herein defined, including silicosis, all claims therefor shall be forever barred unless the same shall be presented in writing under oath to the employer, the insurer, or the board, as the case may be, within thirty (30) days of filing the notice of death as provided in section 13 of this act.

Claims filed in triplicate with medical report.

Claims shall be filed in triplicate on forms to be furnished by the board and may be accompanied by a medical report of the claimant's attending physician. The provisions of this section 12 as to the time for presenting claims for compensation shall prevail over any other provisions of this act to the contrary.

Notice of disability or death.

Section 13. **Notice of disability or death.** The provisions of section 92-807, Revised Codes of Montana, 1947, as amended, shall not apply to cases of disability or death from occupational diseases as in this act defined.

Notice of disability or death in respect to which compensation is payable under this act, except disability or death resulting from silicosis, shall be given to the employer, the insurer, or the board, as the case may be, within thirty (30) days after the employee, his beneficiaries, or his dependents knew or should have known the nature of the impairment or cause of death and its relationship to the employment, but in no event shall notice be filed more than one year after the last day upon which the employee actually worked for the employer against whom compensation is claimed.

Notice of disability from silicosis.

In cases of disability resulting from silicosis which are compensable under this act, notice of such disability shall be given to the employer, the insurer, or the board, as the case may be, within thirty (30) days after the employee knew or should have known of the nature of the impairment and its relationship to employment, but in no event shall such notice be filed more than four (4) years after the last date upon which the employee actually worked for the employer against whom compensation is claimed.

Notice of death from silicosis.

In cases of a death from silicosis which is compensable under this act, notice of such death shall be given to the employer, the insurer, or the board, within thirty (30) days after the employee's beneficiaries or his dependents knew or should have known of the cause of death and its relationship to the employment, but in no event shall such notice be filed more than one (1) year after such death.

Validity.

Such notice shall be valid only if filed in writing on forms to be furnished by the board, and shall contain the name and address of the employee and a statement of the time, place, nature, and cause of the disability or death, and shall be signed by the employee or by some other person on his behalf; or in case of death by any person claiming to be entitled to compensation for such death or by some person on his behalf.

Extension of period of notice.

Except if death occurs during the period of total disability described in section 11, B.3., in which case the period of notice may be extended to the term of seven (7) years from the last day of said employment.

Medical committee nominees.

Section 14. **Medical panel, medical committee, and pulmonary specialists.** The Montana Medical Association may, at least annually, certify to the board as "medical committee nominees" thirty (30) or more licensed physicians of the State of Montana who are particularly qualified in the diagnosis, care and treatment of occupational diseases. In addition thereto, and simultaneously therewith the Montana Medical Association may certify to the board as "pulmonary specialists nominees" three (3) or more licensed physicians of the state who shall have had at the time of certification at least five (5) years' practice in the diagnosis, care and treatment of diseases of the pulmonary tract and the interpretation of x-ray films thereof. From said list of physicians certified as "medical committee nominees," the board shall appoint thirty (30) physicians who shall serve as and be hereinafter referred to as the "medical committee" and who shall examine claimants for occupational disease disabilities other than silicosis. From said list of physicians so certified as "pulmonary specialist nominees" the board shall appoint three (3) or more physicians who shall serve as and be hereinafter referred to as "pulmonary specialists."

Pulmonary specialists nominees.

Appointment by board.

In the event that the Montana Medical Association fails to make the certification as hereinabove provided, then, in that event, the board shall of its own choice appoint thirty (30) licensed physicians in the State of Montana who are particularly qualified in the diagnosis, care and treatment of occupational diseases which said physicians shall serve as and be hereinafter referred to as the "medical committee" and shall appoint three (3) or more licensed physicians in the State of Montana who have had at the time of appointment at least five (5) years' practice in the diagnosis, care and treatment of diseases of the pulmonary tract and the interpretation of x-ray films thereof, which latter group of three (3) or more shall serve as and be hereinafter referred to as "pulmonary specialists." The "medical committee," together with the "pulmonary specialists," shall be known as and hereinafter referred to as the "medical panel."

Medical panel.

Procedure for medical examination.

Section 15. **Procedure for medical examination.**

A. In order to determine the validity of claims made pursuant to the provisions of this act, the following procedure and no other shall be followed in the course of the medical examination of the claimant for official report to said board, claimant, employer, or insurer, as the case may be.

Examination by member of medical committee.

1. Upon the filing of a claim by a claimant for occupational disease disability, other than silicosis, the board shall direct a member from said "medical committee" to examine and determine the disability of the claimant and submit a written report thereon to the board.

Examination by pulmonary specialist.

Upon the filing of a claim for compensation for silicosis disability under this act, the board shall direct an examination of and report to the board upon the claimant by said "pulmonary specialists," or one of them, including such x-ray and other pathological examinations and tests as in the opinion of such specialist or specialists may be necessary for the purpose of determining diagnosis, disablement, and the nature and type of medical treatment, hospitalization and other care required. If the claim is not controverted as to any medical fact, the examination and report of one of said specialists, shall be deemed the examination and report of all "pulmonary specialists." If the claim is controverted as to any medical fact, the report shall be made by all of said specialists after a physical examination by at least two (2) of them. The findings and opinions of a majority of the number of said specialists then appointed shall constitute the findings and opinions of all of them. The contents of the report of said "pulmonary specialists" when placed in the record shall constitute prima facie evidence of fact as to the matter therein contained. The "pulmonary specialists" or any one (1) of them making the report shall be subject to examination upon demand of any interested parties.

Controverted claim.

Findings.

Authority of pulmonary specialists.

The "pulmonary specialists," or any one (1) of them in order to assist in reaching a conclusion may require the attending physician or director of a hospital or a sanitarium or other place in which treatment or care is being given, or has been given, to attend at a convenient time and place to consult with said specialists, or any one of them and to describe the nature and type of care and treatment and furnish any other evidence which said specialist or specialists desire.

Board shall determine claim.

Upon receiving the written report of such examining physician or physicians so appointed, the board shall forthwith determine whether or not the claimant shall receive the benefits pursuant to this act and it shall forward notice of its determination together with a true and correct copy of said medical report to the claimant and the employer or insurer as the case may be.

Notice.

Hearing for protest by employer.

2. If within twenty (20) days after receipt of such notice and medical report the claimant, employer or insurer, as the case may be, is dissatisfied with said determination by said board, they, or any of them, may demand a hearing before said board pursuant to the rehearing provisions of section 92-829, Revised Codes of Montana, 1947. If, however, the board, claimant, employer or insurer, or any of them, is dissatisfied with the results of such first medical examination as indicated by said medical report, such dissatisfied party may upon thirty (30) days' notice in writing to all adversary parties and to the board require a re-examination by a member of said ''medical panel''; provided, however, that if the benefits claimed are for a disability caused by silicosis the physician so selected by the dissatisfied party must be one of the ''pulmonary specialists.'' Thereupon, after receipt of the report of medical re-examination, the board shall give like notice of its determination, whether said determination shall be the same as before or otherwise, together with a copy of said medical report, in the same maner as in the case of the first such examination and the party shall be entitled to a rehearing in the same manner as in the case of such first medical examination. The evidence of the two (2) medical examinations above described shall be final, and, so far as the medical examination of the claimant is concerned, no evidence of other or additional medical examinations shall be admissable before the board upon rehearing nor before any court upon the appeal, if any.

Re-examination for dissatisfied party.

Board shall determine on re-examination.

Evidence final when.

Examination in event of death from silicosis.

Section 16. **Where silicosis causes death.** Where silicosis causes death and a claim for death benefits is filed, the ''pulmonary specialists,'' or any one of them, if the medical evidence be not controverted, shall examine all available evidence pertaining to the claim and shall make findings and thereupon report to the board. The report shall constitute prima facie evidence of fact as to the matters therein contained.

Report prima facie evidence.

Section 17. **When occupational disease other than silicosis causes death.** When an occupational disease, other than silicosis, causes death and a claim for death benefits is filed therefor, a member of the "medical committee" shall examine all available evidence pertaining to the claim and shall make findings and thereupon report to the board. The report shall constitute prima facie evidence of fact as to the matters therein contained.

Examination in event of death from other occupational diseases.

Section 18. **Autopsy.** Upon the filing of a claim for compensation for death caused by occupational disease where an autopsy is necessary accordingly and scientifically to ascertain and determine the cause of death, such autopsy shall be ordered by the board; which autopsy shall be made under the supervision of the county coroner. The board may designate a duly licensed physician who is a specialist in such examinations to perform or attend such autopsies, and to certify his findings thereon. Such findings shall be examined by a member of the medical panel, and shall be on file with the board where it shall be a public record.

Autopsy.

Section 19. **Periodic medical examinations.**

Periodic medical examinations.

A. The employee entitled to compensation shall submit himself for medical examination by a member of the "medical panel," from time to time at a place reasonably convenient for the workman when requested by the board, the insurer or the employer.

B. The request shall fix a time and place having regard to the convenience of the employee, his physical condition and ability to attend. The employee and any other party in interest may have a physician present at the examination if such physician is provided and paid for by the employee or other party.

Request shall fix convenient time and place.

C. If the employee refuses to submit to the examination or obstructs the examination, his right to compensation shall be suspended until the examination has been

Suspension on refusal.

made, and no compensation shall be payable during or for such period.

Testimony by physician.

D. A physician who makes or is present at the examination may be required to testify as to the result thereof.

Board may reduce or suspend payment.

E. The board may reduce or suspend the compensation of an employee who persists in unsanitary or injurious practices tending to imperil or retard his recovery, or who refuses to submit to such medical or surgical treatment as is reasonably essential to promote his recovery.

Expense borne by whom.

Section 20. **Payment of medical examination and autopsy expenses.** Expense of the first medical examination as provided in section 15 of this act shall be borne by the employer if compensation is claimed under plan one, by the insurer if the claim is under plan two, and by the board if the claim is under plan three. The expense of re-examination shall be borne by the dissatisfied party requesting such re-examination. The expense of the periodic medical examinations, as provided in section 19 of this act, shall be borne by the party requesting such periodic medical examination. The expense of the autopsy, as provided for in section 18 of this act, shall be borne by the party requesting such autopsy.

Benefits payable.

Section 21. **Compensation benefits payable under this act.** The compensation to which an employee temporarily totally disabled or permanently totally disabled by an occupational disease, or his beneficiaries and dependents in the case of death caused by an occupational disease, shall be entitled to under this act shall be the same payments which are payable to an injured employee, and such payments shall be made for the same period of time, as is provided in cases of temporary total disability, permanent total disability and in cases of injuries causing death under the workmen's compensation act of the State of Montana.

No payment for partial disablement.

Section 22. **No compensation for partial disability.** No compensation as provided in section 21 of this act shall be payable to an employee who is partially disabled from an occupational disease.

Section 23. **Prohibiting lump sum settlements.** No award made upon any claim pursuant to this act may be converted into a lump sum payment, in whole or in part, except in case the claimant, after having filed a claim with the employer, the board or the insurer, as the case may be, shall have entered into a contract of employment with an attorney for the recovery of such claim, the terms of which employment contract shall be deemed to be reasonable compensation by said board for such attorney's services, in which case, the amount of such attorney's compensation may be ordered by the board to be paid by the employer, insurer or the board as the case may be, and thereafter deducted proportionately from weekly payments thereafter to be made to the claimant pursuant to this act, or said board may at its option require such payments to be deducted each week in such amount as it deems advisable from the payments thereafter to be made to the claimant pursuant to this act and paid to said attorney as they are so deducted from the weekly payments to the claimant.

Prohibiting lump sum settlements.

Attorney's fees.

Section 24. **Burial expenses.** In addition to and separate and apart from any other compensation or benefit provided for in this act, there shall be paid in case of death of an employee, which death is the result of an occupational disease contracted in the course of employment, the reasonable burial expenses of the employee, not exceeding five hundred dollars ($500.00).

Burial expenses.

Section 25. **Medical and hospital expenses.** In addition to the compensation provided by this act, the following shall be furnished:

Medical and hospital expenses.

If an employee becomes totally disabled from an occupational disease, he shall be entitled to receive medical services, hospitalization, medicines and such other treatment as may be approved by the board not exceeding in amount the sum of twenty-five hundred dollars ($2,500.00), provided, however, that in such cases of total disability where apportionment of such sum does not meet such hospital expense, the board may allow an additional amount for such additional hospital and medical expenses as in special cases it may deem proper.

Limitation $2,500.00.

Additional allowance.

Any employee who suffers any of the occupational diseases listed in section 4, but who is able to continue

Continued employment limitation $1,000.00.

in his employment while being treated therefor, shall be entitled to receive such medical services, treatments and medicines reasonably required, not exceeding the value of one thousand dollars ($1,000.00).

When not required.

The employer, or insurer, or the board shall not be required to furnish such services if the employee refuses to allow them to be furnished or if the employee is under hospital contract as provided in section 92-610 (2907), Revised Codes of Montana, 1947, as amended.

Adequate hospital facilities.

When such employee is under a hospital contract as above and when hospital and medical facilities or both are inadequate to the needs of a disabled employee in a particular case such disabled employee may, any time, be placed where adequate hospital facilities are obtainable, and the cost thereof in whole or in part shall be a legal charge against the one so contracting to furnish hospital facilities, and the amount of such charge and the necessity therefor shall be determined by the board.

Aggravation of occupational disease.

Section 26. **Aggravation.** Where an occupational disease is aggravated by any other disease or informity not itself compensable, or where disability or death from any other cause not itself compensable is aggravated, prolonged, accelerated or in any wise contributed to by an occupational disease, the compensation payable under this act shall be reduced and limited to such proportion only of the compensation that would be payable if the occupational disease were the sole cause of the disability or death, as such occupational disease as a causative factor bears to all the causes of such disability or death.

Silicosis with complications.

Section 27. **Silicosis with complications.** In cases of disability or death from silicosis complicated with tuberculosis of the lungs, compensation shall be payable as for disability or death from an uncomplicated silicosis. In case of disability or death from silicosis when complicated with any disease not compensable under this act, and other than pulmonary tuberculosis, compensation shall be reduced as provided in section 26.

Compensation precluded when.

Section 28. **Compensation precluded by wilful misconduct, wilful self-exposure or wilful disobedience of orders of board.** Notwithstanding any other provision of this act, no employee, beneficiary, or dependent of an employee shall be entitled to receive compensation for disability from an occupational disease when such disability was caused by the wilful misconduct, wilful self-exposure, or wilful disobedience to such reasonable rules and regulations ordered by the board and which have been and are kept posted in conspicuous places in and about the premises of the employer, or otherwise brought to the attention of the employee.

Section 29. **Assignment of compensation; exemption from attachment or execution.**

Compensation not assignable nor subject to attachment.

A. Compensation, whether determined or not, shall not, prior to the delivery of the warrant therefor, be assignable.

B. Compensation shall be exempt from attachment, garnishment and execution.

Section 30. **Agreement by employee to waive compensation or to pay premium void. No liability in certain cases.** An agreement by an employee to waive his rights to compensation and except as otherwise provided in this act, an agreement by an employee to pay any portion of the premium paid by his employer, shall be void.

Waiver by employee void.

A. The employer may give, within two weeks of the application, physical examinations to the applicants for employment. Where an applicant for employment whether such applicant has been formerly employed by the employer to whom application is made, or not, though not actually disabled, is found upon competent medical and x-ray examination to be afflicted with an occupational disease, such employer shall not be liable under this act for disability from the particular disease or diseases with which the employee is found to be afflicted or for any normal progression without aggravation of said disease or diseases, if a report of said medical examination be approved by the board as hereinafter provided.

Medical examination of applicant for employment within two weeks.

Employer not liable when.

The report of the medical examination of the applicant for employment and x-rays, if any, shall be delivered to the board by the employer within five (5) days after such examination to such medical report and x-rays, if any, shall be attached a certificate by the examining

Submission of medical report to board.

physician certifying that the medical report is the report of the physical examination of the applicant for employment.

Procedure for determination.

The board shall submit such medical report and x-rays, if any, to a physician of its choice from the medical panel, and such physician shall report to the board his finding as to whether the medical report is satisfactory. The board shall within twenty (20) days after the receipt of such medical report from the employer enter its order approving or disapproving such report and specifying the particular disease or diseases found. Such order shall be in writing stating the reasons for such approval or disapproval. A copy of such order shall be mailed to the employer and a copy of such order shall be mailed to the applicant for employment within twenty-four (24) hours after the board has approved or disapproved such report.

Right to discharge applicant.

An applicant for employment may commence work prior to the approval or disapproval of such report by the board, but if the board shall disapprove such report the employer may discharge such applicant for employment without liability to such applicant.

Limitation two weeks.

Provided, however, that if no physical examination is given to the applicant for employment within said two (2) week period then such applicant for employment shall be fully eligible to the benefits of this act.

Medical examination within 180 days after becoming subject to this act.

B. Employers may give within one hundred eighty (180) days after becoming subject to this act physical examinations to any employees which said employer has in his employment. Where an employee, though not actually disabled is found upon competent medical and x-ray examination to be afflicted with an occupational disease or diseases, such employer shall not be liable under this act for disability from the particular disease or diseases with which the employee is found to be afflicted or for any normal progression without aggravation of said disease or diseases, if a report of said medical examination be approved by the board as hereinbefore provided in sub-section A of this section 30.

Limitation 180 days.

Provided, however, that if no examination is given to the employee within said one hundred eighty (180) day period then such employee shall be fully eligible to the benefits of this act.

C. All such reports shall become permanent records of the board.

Permanent records.

The board may make reasonable rules and regulations relative to the form, execution and filing of such reports not inconsistent with the provisions of this act.

Authority of board to regulate.

Section 31. **Rights of suit at common law.** There shall be no common law right of action for damage from occupational disease against an employer who elects to come under the provisions of this act, excepting for those employees not eligible for compensation under the terms of this act, or who reject coverage of this act.

Election to come under act as defense.

Section 32. **Prohibiting supplementing of benefits.** No person receiving compensation or benefits under the public welfare act of the State of Montana, as provided for by sections 71-1001 to 71-1008, inclusive, of the Revised Codes of Montana, 1947, as amended, shall be entitled to compensation or benefits under this act.

Welfare recipients not eligible for benefits.

Section 33. **Diminution of compensation.** Compensation payable pursuant to the terms of this act to the claimant, his beneficiaries or dependents shall be diminished by the amount of any compensation paid or to be paid him or them under the workmen's compensation act of Montana or any other workmen's compensation act.

Diminution by amount of other compensation.

Section 34. **Compensation plans.** Employers shall secure compensation to their employees under one of the following plans:

Compensation plans.

COMPENSATION PLAN NUMBER ONE

1. **When and how employer may elect to adopt—Direct payment to employee.** Any employer in the industries, trades, works, occupations, or employments in this act specified as hazardous, by filing his election to become, subject to and be bound by compensation plan No. 1, upon furnishing satisfactory proof to the board of his solvency and financial ability to pay the compensation and benefits in this act provided for, and to discharge all liabilities which are reasonably likely to be incurred by him during the fiscal year for which such

Election by employer.

election is effective, may, by order of the said board, make such payments directly to his employees as they may become entitled to receive the same under the terms and conditions of this act.

Proof of solvency filed under Plan No. 1.

2. **Proof of solvency of employer electing plan No. 1 to be filed.** Every such employer now or hereafter engaged in the State of Montana, in the industries, trades, works, occupations, or employments herein mentioned, and who shall have elected to be bound by such compensation plan No. 1, shall file such proof of his solvency within the time and in such form as may be prescribed by the rules or orders of the board. The industrial accident board shall require a fee of five dollars ($5.00) to be paid into the industrial administration fund for the filing of every such proof of solvency.

Fee.

Permission to carry on business.

3. **Employer permitted to carry on business and settle directly with employee—Renewal of application.** If such employer, making such election, shall be found by the board to have the requisite financial ability to pay the compensation and benefits in this act provided for, then the board shall grant to such employer permission to carry on his said business for the fiscal year within which such election is made, and such proof filed, or the remaining portion of such fiscal year, and to make such payments directly to his employees as they may become entitled to receive the same. Every employer, so long as he continues in his said employment, and so long as he continues to be bound by such compensation plan No. 1, shall, at least thirty (30) days before the expiration of each fiscal year, renew his application to be permitted to continue to make such payments as aforesaid directly to his employees for the next ensuing fiscal year, and under like circumstances as those mentioned for the granting of such permission upon such first application, the board may renew the same from year to year.

Direct payment.

Additional proof of solvency.

4. **Additional proof of solvency—Revocation of order.** The board may at any time require from any employer acting under compensation plan No. 1 additional proof of solvency and financial ability to pay the compensation provided by this act, and may at any time, upon notice to such employer of not less than ten (10) or more than twenty (20) days, after and upon a full hearing, revoke any order or approval theretofore made.

Finding requiring security of employer.

5. **Requiring security of employer.** If said industrial accident board shall find that such employer has not financial responsibility for the payment of the compensation herein provided to be paid, which might reasonably be expected to be chargeable to such employer during the fiscal year to be covered by such permission, said industrial accident board must so find, and must require such employer, before granting to him such permission, or before continuing or engaging in such employment, subject to the provisions of compensation plan No. 1, to give security for such payment, which security must be in such an amount as said board shall find reasonable and necessary to meet all liabilities of such employer, which may reasonably and ordinarily be expected to accrue during such fiscal year. Said security must be deposited with the treasurer of the board, and may be a certain estimated percentum of said employer's last preceding annual payroll, or a certain percentum of the established amount of his annual payroll for said fiscal year or said security may be in the form of a bond or undertaking executed to said industrial accident board in the amount to be fixed by it with two or more sufficient sureties, which undertaking must be conditioned that such employer will well and truly pay, or cause to be paid, all such sums and amounts for which the employer shall become liable under the terms of this act to his employees during said fiscal year; or such security may consist of any state, county, municipal, or school district bonds, or the bonds or evidence of indebtedness of any individuals or corporations which the board may deem solvent; and every such deposit and the character and amount of such securities shall at all times be subject to approval, revision, or change by the board as in its judgment may be required, and upon proof of the final payment of the liability for which such securities are given, such securities, or any remaining part thereof, shall be returned to the depositor. The treasurer of the board and his bondsmen shall be liable for the value and safekeeping of all such deposits or securities, and shall, at any time, upon demand of the bondsmen or the depositor or the board, account for the same, and the earnings thereof.

6. **Failure of employer to pay compensation—Duty of**

Duty of board on failure of employer to pay.

board. Upon failure of said employer to pay any compensation provided for in this act, upon the terms and in the amounts and at the times when the same shall become due and payable, it shall be the duty of such industrial accident board, upon demand of the person to whom compensation is due, to apply any deposits made with the board to the payment of the same, and it shall be its duty to take the proper steps to convert any securities on deposit with the said board, or sufficient thereof, into cash and to pay the same upon the liabilities of said employer, accruing under the terms of this act, and it shall be its duty, insofar as the same shall be necessary, to collect and enforce the collection of the liability of all sureties upon any bonds which may be given by the said employer to insure the payment of his said liability. And to these ends, and for these purposes, the board shall be deemed to be the owner of said deposit and security and the obligee in said bond in trust for the said purposes, and may proceed in its own name to recover upon such bonds, or foreclose and liquidate said securities.

Employer to make deposit or security when.

7. **When employer to make deposit or security to guarantee payment of compensation.** Within thirty (30) days after the happening of an accident where death or the nature of the disability renders the amount of future payments certain, or reasonably certain, the employer shall make a deposit or give security as herein defined with the treasurer of the board for the protection and guaranty of the payment of such liability, in such sum as the board may direct; provided, however, that if sufficient securities are already on deposit with the said board, or if the said board shall have determined that the employer has sufficient financial responsibility to meet said liability of the said employer, together with other liabilities already accrued, no such additional deposit or security shall be demanded.

Relief from liability when.

8. **When employer may be relieved from liability.** Any employer against whom liability may exist for compensation under this act, may, with the approval of the board, be relieved therefrom by:

(1) Depositing the present value or the estimated present value of the total unpaid compensation for which

such liability exists, assuming interest at five per centum (5%) per annum, with the treasurer of the board; or

(2) Purchasing an annuity within the limitations provided by law, in any insurance company granting annuities, and authorized to transact business in this state, subject to the approval of the board.

COMPENSATION PLAN NUMBER TWO

Employer electing Plan No. 2 to insure his liability.

1. **Employer electing plan No. 2 to insure his liability.** Any employer in the industries, trades, works, occupations, or employments in this act specified as hazardous, by filing his election to become subject to and bound by compensation plan No. 2, may insure his liability to pay the compensation and benefits herein provided for, in any insurance company authorized to transact such business in this state.

Duty of employer and amount of insurance.

2. **Duty of employer electing plan No. 2—Amount of insurance necessary.** Any employer electing to become subject to and bound by compensation plan No. 2 shall file with the board written acceptance of the provisions of compensation plan No. 2, together with a statement upon forms provided by the board of the nature of his employment, the character and location of his works, the number of men employed during the preceding year, or any part of the preceding year, and the probable number of men to be employed during the first fiscal year to be covered by such election, and the board shall thereupon determine the amount of insurance which will be reasonably necessary to secure the compensation with which the said employer may reasonably be expected to become chargeable during such fiscal year. And thereupon the said employer shall file the policy or policies of insurance herein provided for with the board, which policy or policies shall insure in the amount so fixed by the board against any and all liability of the employer to pay the compensation and benefits provided for in this act. The amount of such insurance shall be fixed by the board for each ensuing fiscal year during which said employer shall engage in his said employment, and shall remain subject to the provisions of compensation plan No. 2, and for the purpose of fixing such amount of said insurance, the said board may make all reasonable and

necessary investigation, and the said employer shall furnish to such board all information which it may require.

Terms of policies.

3. **Policies to contain what.** All policies insuring the payment of compensation under this act, must contain a clause to the effect that as between the employee and the insurer the notice to, or knowledge of the occurrence of the injury on the part of the insured, shall be deemed notice or knowledge, as the case may be, on the part of the insurer; that jurisdiction of the insured for the purpose of this act shall be jurisdiction of the insurer; and that the insurer shall, in all things, be bound by and subject to the awards, orders, judgments, or decrees rendered against such insured. When any such policy, or the renewal thereof, is filed with the industrial accident board, the same shall be accompanied by a fee of three dollars ($3.00), which fee is to be credited to the industrial administrative fund.

Agreement to pay and deposit of bonds.

4. **Agreement to be contained in policies of insurance —Deposit of bonds.** No such policy shall be issued unless it contains the agreement of the insurer that it will promptly pay to the person entitled to compensation all the installments of compensation or other payments in this act provided for, and that the obligation shall not be affected by any default of the insured after the disablement or by any default in the giving of any notice required by such policy or by this act or otherwise. Such agreement shall be construed to be a direct promise by the insured to the person entitled to compensation. Before issuance of any policy by an insurer as herein authorized, such insurer must deposit with the treasurer of the industrial accident board, bonds of the United States or the State of Montana, or of any school district, county, city or town in the State of Montana, in an amount not less than twenty thousand dollars ($20,000.00) or more than one hundred thousand dollars ($100,000.00) as the industrial accident board may determine. If any insurer shall fail to discharge any liability after the amount thereof shall be determined by the board, and within the time limited by the board, it shall be the duty of the board to convert said bonds, or such part thereof as is necessary, into cash, and from the proceeds liquidate such liability in the manner hereinafter provided; and thereafter said insurer must make an additional deposit

to meet any deficiency caused thereby. It is intended hereby to give the industrial accident board the discretion in the matter of whether an insurer has failed to discharge any liability.

5. **Policies made subject to this act—Form of insurance.** Every policy for the insurance of the compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of this act. No insurer shall enter into any such policy of insurance unless its form shall have been approved by the board, as otherwise provided by law.

Form of policy deemed made subject to this act.

6. **Renewals.** Every renewal of such policy shall be made and delivered to said board at least thirty (30) days prior to the expiration of the expiring policy.

Renewal required 30 days prior to expiration.

7. **Deposits by insurer with board.** Within thirty (30) days of the happening of an accident where death or the nature of the disablement renders the amount of future payments certain or reasonably certain, the insurer shall make a deposit, as herein defined, with the treasurer of the board for the protection and guarantee of the payment of such liability in such sum as the board may direct; provided, that if the board deems the amount on deposit by said insurer under the provisions of paragraph 4 of plan two, in section 34, sufficient to cover all liabilities of the insurer, then no further deposit shall be required.

Deposits by insurer with board.

8. **How insurer relieved from liability.** Any insurer against whom liability may exist for compensation under this act, may, with the approval of the board, be relieved therefrom by:

Relief of insurer from liability when.

1. Depositing the present value or the estimated present value of the total unpaid compensation for which such liability exists, assuming interest at five per centum (5%) per annum, with the treasurer of the board; or

2. By purchasing an annuity within the limitations provided by law in any insurance company granting annuities, and authorized to transact business in this state, subject to the approval of the board.

9. **Cancellation of insurance policy.** No policy of insurance issued under the provisions of compensation plan

Cancellation of policy.

No. 2 shall be cancelled within the time limited for its expiration except upon thirty (30) days' notice to the employer in favor of whom such policy is issued, and to the board unless such policy sought to be cancelled shall have been sooner replaced by other insurance.

Report of insurers to board.

10. **Report of insurance companies to board.** Every insurance company transacting business under this act shall, at the time and in the manner prescribed by the board, make and file with the board such reports of accidents as the board may require.

Policies to contain what—approval or change.

11. **Policies to contain clause agreeing to do what—Approval or change.** Every policy or contract insuring against liability for compensation under compensation plan No. 2 must contain a clause to the effect that the insurer shall be directly and primarily liable to and will pay directly to the employee, or in case of death, to his beneficiaries, or major or minor dependents, the compensation, if any, for which the employer is liable. Every such policy shall at all times be subject to the approval, change, or revision by the board, and shall contain the clauses, agreements, and promises required by this act.

Deposit under Plan No. 2 as security.

12. **Deposits under plan No. 2 as security.** Any deposit made under the provisions of compensation plan No. 2 shall be held in trust by the treasurer of the board as security for the payment of the liability for which the deposit was made. Such deposit may be reduced from time to time with the permission of the board, as the payment of the liability of the insurer may reduce the amount required to be on deposit. Such deposit may be changed or renewed when desired by the depositor, by withdrawing the same, or any part thereof, and substituting other deposits therefor; upon proof of the final payment of the liability for which such deposit was made, and deposit remaining shall be returned to the depositor. All earnings made by such deposit shall be first applied upon any liability of the depositors, and if no such liability exists, then such earnings shall upon demand be delivered to such depositor. The treasurer of the board and his bondsmen shall be liable for the value and safekeeping of such deposit, and shall at any time upon demand of his bondsmen, the depositor, or the board, account for the same and the earnings thereof.

COMPENSATION PLAN NUMBER THREE

Plan No. 3.

Assessment for common fund.

1. It is the intent and purpose of compensation plan number 3 that each employer subject to and bound by this plan shall be liable and pay for all disability to employees due to occupational diseases coming under the provisions of this plan, and that all funds collected by assessments as herein provided shall be paid into one common fund to be known as the occupational disease compensation fund, which fund shall be devoted exclusively to the payment of all valid claims for disability from occupational diseases arising out of or in the course of employment coming under the provisions of compensation plan No. 3. Such fund shall consist of all assessments and penalties received and paid into the fund, or property and securities acquired by and through the use of money belonging to the fund, and interest earned upon money belonging to the fund, together with any money appropriated by the legislature for the purpose of this act. The accounts of employers insured in such fund shall be kept in such a manner as the board may prescribe for the purpose of providing information and statistics necessary for determining any changes in rates of classification of employment. The occupational disease compensation fund shall be neither more nor less than self-supporting.

Election to pay into occupational disease compensation fund.

2. Any employer, whether subject to and bound by this act or not, may elect to comply with the provision of compensation plan No. 3 and pay into the occupational disease compensation fund the premiums provided in this act, in which event such employer shall not be liable to respond in damages at common law or by statute for disability or death of an employee due to an occupational disease during the period covered by such premiums and shall enjoy the benefits and privileges of this act. The employee of such an employer shall be deemed to have elected to come under the provisions of this act unless such employee shall execute and file with the board on proper form to be furnished for that purpose, a specific election not to be so bound, in which event he shall not enjoy the benefits or privileges of this act until such election is withdrawn.

Classifications by board.

3. All employments, occupation, or industries affected

by the provisions of compensation plan No. 3 shall be divided by the board for the purpose of the occupational disease compensation fund into classes whose rates may be set and readjusted at such times as the board may determine. The board may rearrange the classes by withdrawing any employment embraced in one class and transferring it wholly or in part to another class. Separate accounts shall be kept if the amounts collected and expended in each class for determining rates, but for paying compensation and dividends the fund shall be one and indivisible. The board shall determine the hazard of the different classes of occupations or industries, and fix the rates of assessment therefor at a percentage of the annual total payroll of such employer at the lowest rate consistent with the maintenance of a solvent occupational disease compensation fund, and the creation of necessary surpluses and reserves, and for such purpose may adopt a system of schedule rating in such a manner as to take account of the peculiar hazard of each individual risk. The board, in fixing rates, shall provide for the expenses of administering the fund, the disbursements on account of occupational disease to employees in each class, reserves adequate to meet anticipated and unexpected losses, reserves adequate to carry the class to maturity, and such other necessary reserves and surpluses as may be determined by the board. The board is authorized, in its discretion, to apply tentative rates, subject to modification in accordance with the loss experience of such risks.

Separate accounts.

Hazards and rates of assessment determined by board.

Expenses of administration.

Time and amount of payment.

4. The initial payment of assessments provided for herein by employers, whether presently engaged in a business, occupation or industry, subject to this act, or an employer who enters such business, occupation or industry at some future date, and all subsequent payment of assessments herein provided shall be made at such times and in such amounts as may be ordered and prescribed by the board.

Penalty for employer in default.

5. Any employer who is in default in the observance of any order of the board issued pursuant to the provisions of this act, shall, in addition to any other penalty provided by this act, be charged an advance of twenty-five per centum (25%) over the established rate, and

such advance rate shall continue to be in force until such employer shall have ceased to be in such default.

Deficiency payment.

6. If at the end of any year, it shall be seen that the contribution to the occupational disease compensation fund by any class of industry shall be less than the drain upon such fund on account of that class, the deficiency shall be made good to the fund on the first day of February of the following year by the employers of that class, in proportion to their respective payments for the previous year.

Investment of fund.

7. The treasurer of the board shall invest in bonds of the United States, bonds of the State of Montana, or bonds of any county, city, or school district in the State of Montana, or any other security which may be approved by said board, and out of the same and its earnings shall be paid such compensation and benefits as the board may direct; provided, however, that when there is sufficient money in the occupational disease compensation fund to meet such compensation payments, any surplus or earnings remaining may be placed in a reserve fund and invested in the securities specified in this section.

Action at law on default.

Cancellation when.

8. If any employer shall default in any payment to the occupational disease fund, the sum due may be collected by an action at law in the name of the state and such right of action shall be cumulative. The board is hereby authorized, in its discretion, to cancel any employer's right to operate under compensation plan No. 3 for failure to pay the premiums due the occupational disease compensation fund; provided, that when the board makes an order cancelling an employer's right for failure to pay premiums or assessments to the occupational disease compensation fund it shall be the duty of the board to make such order at least sixty (60) days before the cancellation becomes effective and to send a formal notice to the sheriff or sheriffs of the county or counties wherein the employer is operating, and it shall be the duty of the said sheriff or sheriffs to post a notice in at least three (3) conspicuous places where the workmen can readily see said notices to the effect that the board has cancelled the right of the said employer to operate under the act, and said notice shall give the date

of the effectiveness of said order. After said cancellation date the said employer shall have the same status as an employer who is not enrolled under the occupational disease act.

Authority of board to compromise.

When an employer's right to operate has been cancelled by the board for failure to pay premiums and when the board, in its discretion, finds that the property and assets of said employer are not sufficient to pay said premiums, the board may compromise said claim for premiums and accept a payment of an amount less than the total amount due.

Disability occurring during default.

9. For any disability to any employee resulting from an occupational disease occurring during default in any payment to the occupational disease compensation fund, the defaulting employer as to such disability shall be considered as having elected not to come under the provisions of this act, except that he shall be and remain liable to pay to the occupational disease compensation fund the amount of such default together with the penalty prescribed in sub-section 5 of this section.

Election to sue by suit or under act.

10. The person entitled to sue under the provisions of subsection 9 of this section shall have the option of proceeding by suit or taking under this act. If such persons take under this act, the cause of action against the employer shall be assigned to the state for the benefit of the occupational disease compensation fund. If such person shall elect to proceed against the defaulting employer, such election shall constitute a waiver of any right to compensation under the provisions of this act.

Cause of action assigned to state.

11. Any cause of action assigned to the state under the provisions of subsection 10 of this section may be prosecuted or compromised by the board in its discretion.

Application for compensation under Plan No. 3.

12. Where an employee is entitled to compensation under compensation plan No. 3, he shall file with the board his application therefor, together with the certificate of the physician attending him, and it shall be the duty of such physician to lend all necessary assistance in making application for compensation and such proof of other matters as may be required by the rules of the board without charge to the employee; provided

that the filing of a certificate of the attending physician shall not constitute a sworn claim for compensation.

Physician's fee.

13. For proper compliance with the provisions of subsection 12 of this section, the physician, after approval by the board, shall be paid out of the occupational disease compensation fund, five dollars ($5.00) for each case.

In event of death.

14. Where death results from an occupational disease, the parties entitled to compensation under compensation plan No. 3, or someone in their behalf, shall make application for the same to the board. The application must be accompanied with proof of death and proof of relationship, showing the parties entitled to compensation, certificate of the attending physician, if any, and such other proof as may be required by the board.

In computing payroll.

15. In computing the pay-roll of any employer the entire compensation received by any employee subject to this act shall be included, whether it be in the form of salary, wage, piece-work, or otherwise and whether payable in money, board or otherwise.

Disbursements from fund.

16. Disbursements out of the occupational disease compensation fund shall be made by the treasurer of the board, as the board may order. If at any time there shall not be sufficient money in the occupational disease compensation fund with which to pay any warrants drawn thereon, the employer, on account of whose workmen the warrant was drawn, shall pay the same, and upon his next contribution to such fund he shall be credited with the amount so paid, with interest thereon at the rate of six per centum (6%) per annum from the date of such payment to the date upon which the next assessment becomes payable; and if the amount of the credit exceeds the amount of such assessment, he shall have a warrant upon such fund for the excess, and if said warrant be not paid for want of funds, it shall be credited to such employer and be applied upon succeeding assessments.

Earnings made by fund.

Penalty for making of profit.

17. All earnings made by the occupational disease compensation fund by reason of interest paid for the deposit thereof, or otherwise, shall be credited to and become a part of said fund, and the making of profit, either directly or indirectly, by the treasurer of the

board, or any other person, out of the use of the occupational disease compensation fund shall constitute a felony, and on conviction thereof shall subject the person making such profit to imprisonment in the state penitentiary for a term not exceeding two (2) years, or a fine not exceeding five thousand dollars ($5,000.00), or both such fine and imprisonment, and the treasurer of the board shall be liable upon his official bond for all profits realized for any unlawful use of the said fund.

Procedure for awards.

Section 35. **Hearing, findings and awards.** Upon receiving a demand for hearing or rehearing by a party dissatisfied by either the first or second determination of compensability by the board, as provided in section 15, the board shall hold such hearing within ninety (90) days from the date of demand for hearing or rehearing. After the final hearing by the board, it shall within thirty (30) days, make and file a finding upon all facts involved in the controversy, and its award, which shall state its determination as to the rights of the parties.

Power of board to make awards.

Section 36. **Power of board to award compensation and time and manner of payment.** The board in its award may fix and determine the total amount of compensation to be paid, and specify the manner of payment, or may fix and determine the weekly disability indemnity to be paid, subject to the limitations in this act contained; providing, however, that the payment of such award and indemnity shall be in the same manner as that of undisputed awards and indemnities coming within the particular plan provided for in this act to which said award and indemnity belong.

Payment to parent or guardian.

Section 37. **Where payment due to child under eighteen years.** Where payment is due to a child under eighteen (18) years of age or to a person adjudged incompetent, the same shall be made to the parent or to the duly appointed guardian, as the case may be, and the written receipt of such parent or guardian shall acquit the employer, the insurer or board, as the case may be, of further liability. In other cases, payment shall be made to the person entitled thereto or to his duly authorized representative.

Section 38. **Payment of compensation shall begin.** Payment of compensation under this act shall begin on July 1, 1959.

Payment under act to begin July 1, 1959.

Section 39. **Common law defenses not available.**

Common law defenses not available to employer in default.

A. Employers subject to and who fail to comply with the provisions of section 34 of this act shall not be entitled to the benefits of this act during the period of noncompliance, and shall not avail himself of the defenses:

1. That the employee was negligent, unless such negligence was wilful;

2. That the disability was caused by the negligence of a fellow employee;

3. That the employee had assumed the risks inherent, incident to, or arising out of his employment, or arising from the failure of the employer to provide and maintain a reasonably safe place to work, or reasonably safe tools or appliances.

Section 40. **Penalties for violation.** An employer subject to this act who fails to comply with section 34 of this act, or a person who violates any other provision of this act, does an act prohibited thereby, or fails or refuses to perform a duty imposed by this act within the time prescribed by law or by the board for which no penalty is specifically provided, or fails, neglects or refuses to obey an order of the board or a judgment of a court under the provisions of this act, is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) nor more than six hundred dollars ($600.00) for the first offense, and not less than two hundred dollars ($200.00) nor more than twelve hundred dollars ($1,200.00) for each subsequent offense.

Penalties for violation.

Section 41. **Deduction from wages of any part of a premium misdemeanor—Hospital contributions.** It shall be unlawful for the employer to deduct or obtain any part of any premium required to be paid by this act from the wages of earnings of his workmen, or any of them, and the making or attempt to make any such deduction shall be a misdemeanor, except that nothing in this section shall be construed as prohibiting contribu-

Unlawful to deduct premium from wages.

tions by employees to a hospital fund, as elsewhere in this act provided.

False representation by employee.

Section 42. **False representation by employee.** No compensation shall be payable for an occupational disease if the employee, at the time of entering the employment of the employer by whom the compensation would otherwise be payable, knowingly represented himself in writing as not having previously been disabled, laid off, or compensated in damages or otherwise, because of such disease when the contrary is true.

Procedure for legal action by board.

Section 43. **Legal action by board.** Upon request of the board, the attorney general shall institute and prosecute actions for the enforcement of the provisions of this act or for the recovery of money due the state occupational disease compensation fund or for any penalty provided for in this act, and he shall prosecute or defend all actions brought by or against the board, or the members thereof in their official capacity. The board may compromise any action brought under this act.

Board may sue and be sued.

Service on chairman.

Section 44. **Board may sue and be sued.** The industrial accident board of Montana may sue and be sued in its own name. Service of summons and other processes on the chairman of the industrial accident board shall be deemed service on the board.

Board shall adopt rules and regulations.

Section 45. **Board shall adopt rules and regulations.** Subject to the provisions of this act, the board shall adopt and publish rules and regulations governing procedure before it, and shall prescribe forms of notice and manner of serving the same in all claims for compensation, and may change the same from time to time at its discretion.

Board shall prescribe claim forms.

Section 46. **Claim forms prescribed by board.** Claims for compensation under this act shall be filed on forms prescribed and provided for by the board and shall be filed in the same manner as claims for compensation under the workmen's compensation act unless in this act otherwise provided.

Power of board to administer oaths, certify acts, issue subpoenas, etc.

Section 47. **Power of board in certain matters.**

A. Each member of the board and referees appointed by the board, for the purposes provided in this act, may administer oaths, certify official acts, issue subpoenas, compel attendance of witnesses and production of papers books, accounts, documents and evidence.

Confidential information.

Section 48. **Confidential information used, how.** No information furnished to the board by an employer or an insurer shall be open to public inspection, or made public except on order of the board, or by the board or a member of the board, in the course of a hearing or proceeding. Any officer or employee of the board who, in violation of the provisions of this section, divulges any information, shall be guilty of a misdemeanor.

Use of American Experience Table of Mortality.

Section 49. **American experience table of mortality used.** Whenever it is necessary to estimate the sum of money to set aside as a reserve in any case, the American experience table of mortality shall be used.

Hearings and investigations.

Section 50. **Hearings and investigations — Technical rules.** Hearings and investigations before the board, or any member thereof, shall be governed by this act and by rules of practice and procedure to be adopted by the board, and in the conduct thereof neither the board nor any member thereof shall be bound by the technical rules of evidence. No informality in any proceedings or in the manner of taking testimony shall invalidate any order, decision, award, rule, or regulation made, approved, or confirmed by the board.

Not bound by technical rules of evidence.

Depositions.

Section 51. **Depositions may be taken.** The board, or any member thereof, or any party to the action or proceeding may, in any investigation or hearing before the board, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the district courts of this state, and to that end may compel the attendance of witnesses and the production of books, documents, papers and accounts.

Powers of board to administer this act.

Section 52. **Powers of board.** The board is hereby vested with full power, authority, and jurisdiction to do and perform any and all things, whether herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of any power, authority, or jurisdiction conferred upon it under this act.

Powers to issue writs and process.

Section 53. **Powers to issue writs and process—Fees**

for serving. The board, and each member thereof shall have power to issue writs of summons, warrants of attachment, warrants of commitment, and all necessary process in proceedings for contempt in like manner and to the same extent as courts of record. The process issued by the board or any member thereof shall extend to all parts of the state, and may be served by any persons authorized to serve process of courts of record, or by any person designated for that purpose by the board, or any member thereof.

Fees for execution of process and witnesses.

The person executing any such process shall receive such compensation as may be allowed by the board, not to exceed the fees now prescribed by law for similar service, and such fees shall be paid in the same manner as provided herein for the fees of witnesses.

Power to administer oaths, etc.

Section 54. **Power to administer oaths, certify official acts, issue subpoenas — witness fees and mileage.** The board and each member thereof, its secretary and referees, shall have the power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony in an inquiry, investigation, hearing, or proceeding in any part of the state.

Fees and mileage for witnesses.

Each witness who shall appear by order of the board, or any member thereof shall be entitled to receive, if demanded, for his attendance the same fees and mileage allowed by law to a witness in civil cases in the district court, which amount shall be paid by the party at whose request such witness is subpoenaed, unless otherwise ordered by the board. When any witness, who has not been required to attend at the request of any party, is subpoenaed by the board, his fees and mileage may be paid from the funds appropriated for the use of the board in the same manner as other expenses of the board are paid. Any witness subpoenaed, except one whose fees and mileage may be paid from the funds of the board, may at the time of service demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one day's attendance. If such witness demands such fees at the time of service and they are not at that time paid or tendered, he shall not be required to attend before the board, or a member thereof or referee, as dircted in the subpoena.

Power of district court to compel testimony.

Section 55. **Power of district court concerning production of testimony — contempt.** The district court in and for the county in which any inquiry, investigation, hearing, or proceeding may be held by the board, or any member thereof, shall have the power to compel the attendance of witnesses, the giving of testimony, and the production of papers, books, accounts, and documents as required by any subpoena issued by the board, or any member thereof. The board, or any member thereof, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place fixed for the attendance of said witness, or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend, or produce the papers required by the subpoena before the board or any member thereof in the case of proceeding named in the notice and subpoena, or has refused to answer questions propounded to him in the course of such proceedings, and ask an order of said court compelling the witness to attend and testify or produce said papers before the board. The court, upon the petition of the board, or any member of the board, shall enter an order directing the witness to appear before the court at the time and place to be fixed by the court in such order, not more than ten (10) days from the date of the order, and then and there show cause why he had not attended or testified, or produced such papers before the board. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the board, or a member thereof, and regularly served, the court shall thereupon enter an order that said witness appear at the time and place fixed in said order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court. The remedy provided in this section is cumulative, and shall not be construed to impair or interfere with the power of the board, or a member thereof, to enforce the attendance of witnesses and the production papers, and to punish for contempt, in

Contempt.

the same manner and to the same extent as courts of record.

Certificates and certified copies as evidence.

Section 56. **Certificates and certified copies as evidence.** Copies of official documents and orders filed or deposited according to law in the office of the board, certified to by a member of the board, or by the secretary under the official seal of the board, to be true copies of the original, shall be evidence in like manner as the originals. In any court proceeding, wherein the question as to whether or not an employer or employee has complied with and is operating under and bound by the provisions of the occupational disease act of Montana, is a question for determination, a certificate by a member of the board, or by the secretary under the official seal of the board, certifying that such employer or employee has or has not complied with, and is or is not operating under, and is or is not bound by the provisions of the occupational disease act of Montana, shall be prima facie evidence thereof.

Apportionments of costs—expenses.

Section 57. **Apportionment of costs and disbursements — expenses.** The costs and disbursements incurred in any proceeding or hearing before the board, or a member thereof, may be apportioned between the parties on the same or adverse sides, in the discretion of the board. Costs and disbursements in any proceeding or hearing, arising out of cases under plan No. 3, may be paid from the occupational disease compensation fund, and in the discretion of the industrial accident board, including the necessary traveling and other expenses and disbursements of the members of the board, its referees or officers or employees incurred while actually conducting investigations, hearings or proceedings, within or without the State of Montana.

Books and records of employer open to inspection.

Section 58. **Books, records and payrolls to be open to inspection.** The books, records, and payrolls of the employer, pertinent to the administration of this act, shall always be open to inspection by the board or any duly authorized employee thereof, for the purpose of ascertaining the correctness of the payroll, the number of men employed, and such other information as may be necessary for the board and its management under this act. Refusal on the part of the employer to submit said books, records, and payrolls for such inspection shall subject the offending employer to a penalty of one hundred dollars ($100.00) for each offense, to be collected by civil action in the name of the state, and paid into the industrial administration fund.

Jurisdiction of board.

Section 59. **Jurisdiction of board to hear disputes and controversies.** All proceedings to determine disputes or controversies arising under this act shall be instituted before the board, and not elsewhere, and determined by them, except as otherwise in this act provided, and the board is hereby vested with full power, authority, and jurisdiction to try and finally determine all such matters, subject only to review in the manner and within the time in this act provided.

Presumptive evidence.

Section 60. **Presumption as to legality of rules, orders, findings, etc., of board.** All orders, rules and regulations, findings, decisions, and awards of the board in conformity with law shall be in force and shall be prima facie lawful; and all such orders, rules, and regulations, findings, decisions, and awards shall be conclusively presumed by be reasonable and lawful, until and unless they are modified or set aside by the board or upon review.

Collateral attack not permitted.

Section 61. **Collateral attack not permitted.** No orders or decisions of the board shall be subject to collateral attack, and may be reviewed or modified only in the manner provided therein.

Appeal to district court.

Section 62. **Appeal to district court.** Within thirty (30) days after the rendition of the final decision of the board provided in this act and within twenty (20) days after notice thereof, any party affected thereby, may appeal to the district court of the judiciary district of the State of Montana, in and for the county in said state wherein the occupational disease disability occurred or the employer may have a place of residence, or if such employer be a corporation may have his principal office or place of business and said appeal shall be for the purpose of having the lawfulness of the determination, order, decision or award inquired into and determined.

Procedure on appeal.

Section 63. **Procedure upon appeal.** The said appeal shall be taken pursuant to the provisions of Section 92-834, Revised Codes of Montana, 1947.

Appearance on appeal.

Section 64. **Appearance on appeal.** Appearances shall be made and judgment rendered in the manner set forth in Section 92-835, Revised Codes of Montana, 1947.

Appeal to supreme court.

Section 65. **Appeal to supreme court.** Either the board, or the appellant, or any adversary party, if there be one, may appeal to the supreme court of the state of Montana from any final order, judgment, or decree of the said district court, which said appeal shall be taken in like manner as appeals are now taken in other civil actions to the said supreme court, and upon such appeal the said supreme court shall make such orders in reference to stay of proceedings as it finds to be just in the premises, and may stay the operation of any order, judgment, or decree of said district court, without requiring any bond or undertaking from the applicant for such stay. When any such cause is so appealed it shall have precedence upon the calendar of the said supreme court, and shall be tried by said supreme court upon the record made in said district court and before said board, and judgment and decree shall be entered therein as expeditiously as possible.

Employer liability.

Section 66. **Employer liability.** There is imposed on every employer subject to this act a liability for the payment of compensation as herein provided.

No vested right to compensation.

Section 67. **No vested right to compensation.** The right to the compensation provided for herein shall not, nor shall the rate or amount thereof be, or become vested or continuing rights, in persons awarded compensation under this act, or any amendment hereof, but the state reserves the right, by act of the legislature, to reduce the rate or amount of compensation thereafter to be received by any person theretofore or thereafter receiving compensation under this act or any amendment hereof, or to wholly discontinue to all persons all compensation provided for by this act, or any amendment hereof.

Liberally construed.

Section 68. **This act to be liberally construed.** Whenever this act or any part or section thereof is interpreted by a court, it shall be liberally construed by such court.

Repealing clause.

Section 69. All acts or parts of acts in conflict herewith are hereby repealed.

Section 70. This act shall be in full force and effect from and after its date of passage and approval.

Effective immediately.

Approved March 7, 1959.

CHAPTER 156

An Act Relating to the Distribution of Monies Received by the State of Montana Under and by Virtue of the Flood Control Act of 1954 Under Title Thirty-three (33) United States Code Annotated Section 701-c-3; Providing for the Distribution of Such Monies by the State to the Counties of Montana Wherein Such Flood Control Land Is Situated; Providing the Counties Receiving Such Monies Shall Expend Fifty Percent (50%) Thereof for the Benefit of the County Common Schools in the County Wherein Such Flood Control Land Is Situated and Fifty Percent (50%) Thereof for the Benefit of the General Public Roads in the County Wherein Such Flood Control Land Is Situated; Providing and Designating the Funds Into Which Such Monies Shall Be Distributed by the County Concerned; Providing for a Repealing Clause; and Providing for an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Distribution of monies received under flood control act of 1954 to county treasurers.

Section 1. All monies received or hereafter to be received by the State of Montana from the Secretary of the Treasury of the United States, under and by virtue of the Flood Control Act of 1954, under title thirty-three (33) United States Code annotated Section 701-c-3, or which are now held in suspense accounts within the State of Montana, shall be distributed by the state to the County Treasurers of the counties of the State of Montana wherein the flood control land is situated.

Deposit of monies by county treasurers.

Section 2. All monies received or to be received by the County Treasurers of the counties of the State of Montana wherein such flood control land is situated shall be deposited in the funds designated as the County Common School tax fund and the General Public Road fund, and shall be expended as follows:

50% to be expended for county common schools and 50% for benefit of general public roads.

Fifty percent (50%) of all monies received or to be received shall be expended for the benefit of the county common schools in the county concerned, and fifty percent (50%) of all monies received or to be received shall be expended for the benefit of the general public roads in the county concerned.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1959.

CHAPTER 157

An Act to Regulate and Control Lobbying Before the State Legislature and During Sessions Thereof; Providing for Licensing and Registration of Lobbyists; Providing Penalties and Enforcement.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose of act to promote high standard of ethics in lobbying.

Section 1. The purpose of this act is to promote a high standard of ethics in the practice of lobbying, to prevent unfair and unethical lobbying practices and to provide for the licensing of lobbyists and the suspension of revocation of such licenses.

Definitions.

Section 2. The following words and phrases shall have the meaning respectively ascribed to them:

"Lobbying."

(1) **Lobbying.** The practice of promoting or opposing the introduction or enactment of legislation before the legislature or the members thereof by any person other than a member of the legislature or a public official acting in his official capacity.

"Lobbyist."

(2) **Lobbyist.** Any person who engages in the practice of lobbying for hire except in the manner authorized by Section 7. Lobbying for hire shall include activities of any officers, agents, attorneys or employees of any principal who are paid a regular salary or retained by such principal and whose duties include lobbying. When

a person is only reimbursed for his personal living and travel expenses, he shall not be considered to be lobbying for hire. Nothing in this section shall be construed to deprive any citizen not lobbying for hire of his constitutional right to communicate with members of the legislature.

"Unprofessional conduct."

(3) **Unprofessional Conduct.** A violation of any of the provisions of this act, or soliciting employment from any principal, or instigating the introduction of legislation for the purpose of obtaining employment in opposition thereto, or attempting to influence the vote of legislators on any measure pending or to be proposed by the promise of support or opposition at any future election, or by any other means than argument on the merits thereof, or by making public any unsubstantiated charges of improper conduct on the part of any other lobbyist or of any legislator, or engaging in practices which reflect discredit on the practice of lobbying or the legislature.

"Principal."

(4) **Principal.** (a) Any person, corporation or association which engages a lobbyist or other person in connection with any legislation, pending before the legislature or to be proposed, affecting the pecuniary interest of such person, corporation or association.

(b) Any board, department, commission or other agency of the state, or any county or municipal corporation, which engages a lobbyist or other person in connection with any legislation pending or to be proposed affecting the statutory powers, duties or appropriation of such agency, county or municipal corporation.

"Docket."

(5) **Docket.** The register of licensed lobbyists maintained by the secretary of state pursuant to Section 5.

"Pecuniary interest."

(6) **Pecuniary interest.** This term includes without limitation any legislation which creates, alters or repeals any statutory charge by way of tax, license fee, registration fee or otherwise, or which creates, alters or repeals any statutory privilege, power, restriction or obligation of any principal, or which creates, alters or repeals the powers or duties of any court or governmental agency before which the principal does business.

Eligibility for lobby license.

Section 3. (1) **Licenses—Fees—Eligibility.** Any person of adult age and good moral character who is a citizen of the United States and otherwise qualified under this act may be licensed as a lobbyist as herein provided. The secretary of state shall provide for the form of application for license. Such application may be obtained in the office of the secretary of state and filed therein. Upon approval of such application and payment of the license fee of ten dollars ($10.00) to the secretary of state, a license shall be issued which shall entitle the licensee to practice lobbying on behalf of any one or more principals. Each license shall expire on December 31 of each odd numbered year. No application shall be disapproved without affording the applicant a hearing which shall be held and decision entered within ten (10) days, of the date of filing of the application. The license fees collected by the secretary of state under this act shall be deposited by him in the state treasury in a special fund to be known as the "Lobby License Fund" which fund is to be expended in the manner hereinafter provided.

Fee.

Expiration.

Lobby license fund.

Suspension or revocation of license.

(2) **Suspension or revocation of license.** Upon verified complaint in writing to the attorney general of the State of Montana charging the holder of a license with having been guilty of unprofessional conduct or with having procured his license by fraud or perjury or through error, the attorney general is hereby authorized to bring civil action in the district court for Lewis and Clark County, State of Montana, against the holder and in the name of the state as plaintiff to revoke the license. Hearing shall be held by the court unless the defendant-licensee demands a jury trial. The trial shall be held as soon as possible and at least twenty (20) days after the filing of the charges and shall take precedence over all other matters pending before the court. If the court finds for the plaintiff judgment shall be rendered revoking the license, and the clerk of the court shall file a certified copy of the judgment with the secretary of state. Costs shall be paid from the "Lobby License Fund." The licensing authority may commence any such action on his own motion.

Suspension of lobbying privileges.

(3) **Suspension of lobbying privileges.** No lobbyist whose license has been suspended or revoked and no

person who has been convicted of a violation of any provision of this act shall engage in any lobbying until he has been reinstated to the practice of lobbying and duly licensed.

Docketing of names.

Section 4. Except as provided in Section 7 every principal who employs any lobbyist shall within one (1) week after such employment cause the name of said lobbyist to be entered upon the docket. It shall also be the duty of the lobbyist to enter his name upon the docket. Upon the termination of such employment such fact may be entered opposite the name of the lobbyist either by the lobbyist or the principal.

Secretary of state shall prepare and keep docket.

Docket open to inspection.

Section 5. (1) The secretary of state shall prepare and keep a docket in which shall be entered the name and business address of each lobbyist and the name and business address of his principal, and the subject or subjects of legislation to which the employment relates or a statement that the employment relates to all matters in which the principal has an interest. Such docket shall be a public record and open to the inspection of any citizen upon demand at any time during the regular business hours of the office of the secretary of state. Beginning with the first week following the beginning of any regular or special session of the legislature and on every Tuesday thereafter for the duration of such session, the secretary of state shall from his records report to each house of the legislature the names of lobbyists registered under this act, not previously reported, the names of the persons whom they represent as such lobbyist, and subjects of legislation in which they are interested.

Duties of principal to make entries in docket.

(2) Any principal employing any lobbyist shall when further subjects of legislation are introduced or arise which such lobbyist is to promote or oppose, make or cause to be made additional entries in the docket stating such employment so that the docket will show at all times all subjects of legislation in relation to which the lobbyist is employed or the general statement provided above.

Duty of lobbyist to file authorization.

(3) Within ten (10) days after his registration in the docket, a lobbyist shall file with the secretary of state a written authorization to act as such signed by his principal.

No practice without license.

Section 6. (1) No person shall practice as a lobbyist unless he has been duly licensed under the provisions of Section 3 and unless his name appears upon the docket as employed in respect to such matters as he shall be promoting or opposing. No principal shall directly or indirectly authorize or permit any lobbyist employed by him to practice lobbying in respect to any legislation affecting the pecuniary interest of such principal until such lobbyist is duly licensed and the name of such lobbyist is duly entered on the docket. No person shall be employed as a lobbyist for a compensation dependent in any manner upon the passage or defeat of any proposed or pending legislation or upon any other contingency connected with the action of the legislature or of either branch thereof or of any committee thereof.

Copies of distribution to legislature.

(2) Before or within five (5) days after delivering any written or printed statement, argument or brief to the entire membership of either or both houses of the legislature, three (3) copies shall be deposited with the secretary of state.

Restrictions effective only during sessions.

(3) The restrictions upon the practice of lobbying provided by this act shall be effective only during the regular and special sessions of the legislature.

When license not required.

Section 7. Any person who limits his lobbying solely to appearances before legislative committees of either house and registers his appearance on the records of such committee in writing, shall not be required to be licensed as a lobbyist, pay a license fee, or register with the secretary of state.

Penalty for violation.

Section 8. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail, not more than six (6) months, or by a fine not exceeding two hundred dollars ($200.00), or both.

Saving clause.

Section 9. If any section, subsection, sentence, clause or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portion of this act.

Approved March 7, 1959.

CHAPTER 158

An Act to Make the Governor the Chief Budget Officer of the State, Requiring the Governor to Prepare and Present a Budget Message and Balanced Budget to Each Regular Session of the Legislative Assembly; to Establish the Office of Director of the Budget and Providing for the Appointment of the Director of the Budget who Shall Hold Office at the Pleasure of the Governor; Requiring Each Department, State Institution and Agency to Submit Information Requested by the Director of the Budget, Providing That the Director of the Budget Shall Prepare a Budget Request for Any Department, Institution or Agency Not Submitting Requested Information; to Provide for the Preparation of a Preliminary Budget by the Director of the Budget; Fixing the Form and Content of the Budget and Designating the Items of Revenue and Expenditures Which Must Be Set Forth and Requiring a Proposed Budget Bill and Recommendations for New Sources of Revenue; Granting to the Governor-Elect the Right to Make Comments and Recommendations to Be Incorporated in the Budget; Granting Power to the Director of the Budget to Investigate the Items Submitted to His Office and to Demand and Receive Requested Information from Every Department, Officer, Board, Commission, or Institution; to Amend Sections 82-109, 82-110 and 82-112 of the Revised Codes of Montana, 1947, Repealing Sections 79-1002, 79-1003, 79-1004, 79-1004.1, 79-1005, and 79-1010, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Governor is chief budget director.

Appointment of director of budget.

Section 1. The governor shall be the chief budget officer of the state and shall appoint a director of the budget, who shall hold office at the pleasure of the governor, and whose duty it shall be to carry out the provisions of this chapter.

Duties of director.

Section 2. In the preparation of a state budget the director of the budget shall, not later than the fifteenth day of August in the year preceding the convening of the legislative assembly, distribute to all state offices and institutions, including the judicial department, the proper blanks necessary for the preparation of budget estimates. These blanks shall be in such form as shall be prescribed by the director of the budget to procure such information as the director of the budget shall, in his discretion, feel is necessary for the preparation of a budget including budget estimates, estimates of revenues, actual revenues received, expenditures made and other information classified and grouped as requested by the director of the budget and covering such period or periods of times as specified by the director of the budget.

Duty to submit information.

(a) It shall be the duty of each department, state institution, and agency to submit information requested by the director of the budget on or before the fifteenth day of September in the year preceding the convening of the legislative assembly.

Procedure on failure to submit information.

(b) If any department, institution or agency shall fail to present such requested information within the time herein specified, the director of the budget shall note that fact in the budget submitted to the governor, and the director of the budget shall prepare a budget request on behalf of such department, institution or agency, based upon his studies of the operations, plans and needs thereof.

Duty of director to examine data and submit preliminary budget to governor.

Section 3. Upon receipt of the completed forms and other available data and information, the director of the budget shall examine the same for the purpose of determining the necessity of the expenditures and funds requested by appropriations and shall, on or before the first day of December in the year preceding the convening of the legislature, submit to the governor and to the governor-elect, if one there be, in writing, a preliminary budget for the ensuing biennium containing the detailed information hereinafter required to be set forth in Part 2 of the budget to be submitted by the governor to the legislative assembly.

Duty of governor to have budget prepared and submitted to legislators.

Section 4. The governor shall, following the receipt of the preliminary budget from the director of the budget, have prepared a budget for the ensuing biennium and shall submit said budget to each member of the legislative assembly at the time of the convening of the legislative assembly. The budget submitted shall set forth a balanced financial plan for the state government for each fiscal year of the ensuing biennium, and shall be set up in three (3) parts, the nature and contents of which shall be as follows:

Part 1—Governor's budget message.

Part 1 shall consist of a budget message by the governor which shall outline the financial policy of the state government for the ensuing biennium and shall describe in connection therewith the important features of the financial plan; it shall also embrace a general budget summary setting forth the aggregate figures of the budget in such manner as to show a balance between the total proposed expenditures and the total anticipated revenues together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The general budget summary shall be supported by explanatory schedules or statements, classifying both expenditures and income contained therein by organization units and funds.

If so requested by the governor-elect, the governor shall incorporate in the budget, as a separate section, such estimates, comments and recommendations as the governor-elect may wish to make, and this section of the budget shall be transmitted to the legislative assembly without change, and it is the duty of the governor-elect in recommending changes to show a balance between proposed expenditures and anticipated revenue.

Part 2—Detailed budget.

Part 2 shall set forth the detailed budget estimates, both of expenditures and revenues of each department, institution and agency of the state in the following manner:

Revenues.

1. The revenues from all sources including appropriations for each fiscal year of the last completed biennium, for the completed fiscal year of the current biennium, and appropriations and estimated revenue from other sources for the current fiscal year in progress. Revenue shall be classified by organization units, sources and funds.

Expenditures.

2. Expenditures during each fiscal year of the last

completed biennium, expenditures for the completed fiscal year of the current biennium and estimated expenditures for the current fiscal year in progress. These expenditures shall be classified by organization units, objects and funds.

Each department.

3. The amount approved by the governor as necessary for the carrying on of the work of each department, office or institution itemized as to purpose for each fiscal year of the ensuing biennium.

Bonded indebtedness.

4. Statements of the bonded indebtedness of the state government showing the debt redemption requirements, the debt authorized and unissued and the condition of the sinking funds.

Cash balances.

5. A statement of the cash balances on hand in each of the funds at the close of each of the two last completed fiscal years.

Further recommendations.

6. A statement containing further recommendations of the governor should he deem it necessary.

Part 3— Proposed budget bill.

Part 3 shall include a proposed budget bill, authorizing by departments, institutions and agencies, and by funds, all expenditures for each fiscal year of the ensuing biennium, and must be accompanied by detailed and specific recommendations as to new sources of revenue, if necessary, to balance and to finance the budget. If recommendations for new sources of revenue are submitted, estimates of revenue to be realized from such new sources must also be submitted.

Director shall make Investigations.

Section 5. The director of the budget shall make such further inquiries and investigations as he shall deem necessary as to any item included in the report and estimates furnished by any department, agency or institution. In making such investigations, he shall be allowed his necessary expenses of travel and subsistence as provided by law in visiting any institution or department in the state. The director of the budget may appoint a chief assistant and may employ such other personnel as may be necessary to carry out the provisions of this chapter.

Director's duties at direction of governor.

Section 6. The director of the budget in addition to the duties hereinbefore set forth shall perform such other duties as the governor as chief budget officer of the state may direct. He shall, as often as requested by the governor, prepare and furnish reports to the governor concerning appropriations made by the legislative assembly, the receipts from sources other than appropriations, and expenditures made by any department, office or institution of the state. The director of the budget shall be available to all standing committees of the house of representatives and the senate concerned with appropriations, revenue, finance and claims and shall furnish to such committees any information required while said committees are considering the budget.

Power of director to secure information.

Section 7. The director of the budget shall have power to demand and receive from every department, officer, board, commission, or institution, including the state controller, at any time, any and all information requested by the director of the budget.

Amending clause.

Section 8. That Section 82-109, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duties of controller—expenditure procedure.

"82-109. **Duties of controller — expenditure control.** (a) The controller shall establish a system of financial control to the end that the functioning of the various departments of the state may be improved, that duplications of work done by different state departments and employees may be eliminated, the public service improved, and the cost of government reduced.

"(b) It shall be the duty of the controller to apply expenditures against cash funds wherever possible before using the general fund appropriations.

"(c) The controller may, when authorized by the governor, require a quarterly allotment system of expenditure for any office, department, bureau, commission, institution or agency. The amount of the respective appropriation made by the legislative assembly shall then, except with respect to items of capital outlay and repairs and replacement, be made available to such office, department, bureau, commission, institution or agency in quarterly allotments, provided, however, that the quarterly allotment shall be based on the requirements of that office, department, bureau, commission, institution or agency during that quarter based on previous experience of that office, department, bureau, commission, institution and agency and not on a pro rata quarterly basis.''

Amending clause.

Section 9. That Section 82-110, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duties of controller—uniform accounting.

''82-110. **Duties of controller—to act with state auditor and state examiner—uniform accounting system—examinations.** (a) The controller, acting with the state examiner, shall prescribe and install uniform accounting and reporting for the several state boards, bureaus, departments, commissions and institutions in addition to those enumerated in Section 82-102 hereof, showing the receipt, use and disposition of all public money and property, and shall develop plans for improvements and economies in the organization and operation thereof which shall be submitted to the respective heads of such boards, bureaus, departments, commissions and institutions. Copies of all such plans shall be delivered to the governor and additional copies shall be retained in the office of the controller for inspection by the members of the legislative assembly.

Power of controller to examine.

''(b) The controller shall receive copies of all audits and reports of the state examiner relating to all state departments, boards, bureaus, institutions and agencies and, without duplicating work done in preparing such audits and reports, he shall have the power and it shall be his duty to examine into all financial affairs of every state board, commission, bureau, department and institution for the purpose of developing plans for improvements and economies in the organization and operation thereof, and for the purpose of enabling him to properly perform any of the duties imposed upon him by this act.

Duties of state officers and employees to supply information to controller.

''(c) All officers, employees and other persons connected with the fiscal affairs of any state office, board, bureau, department, commission or institution must afford all reasonable facilities for the examination of accounts and investigations provided for in this act, and must make reports, returns and exhibits relating to such fiscal matters to the controller in such form as he shall prescribe; and the controller shall have and keep in his office the names of and amount of salary paid to each person regularly employed by the State of Montana and every agency thereof.

Penalty for violation.

"(d) If any officer or employee of the state or any agency thereof shall refuse or neglect to comply with subdivision (c) of this section, the salary of such officer or employee shall, on request of the controller to the proper official, be withheld until such recreant officer or employee shall comply therewith and the controller certifies approval to the disbursing officer."

Amending clause.

Section 10. That Section 82-112 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duty of director to submit budget required for federal aid to governor.

"82-112. **When a budget of contemplated expenditures required by federal agency as a condition of federal aid**—*director of budget* **to first submit budget to governor.**

"Whenever any agency of the federal government shall require as a condition to obtaining federal aid that the state agency intrusted with the administration of such aid shall submit a budget of the contemplated expenditures for administrative purposes, the proposed budget for such expenditures shall, before it is submitted to the federal authorities for approval, first be submittted *by such state agency to the director of the budget. The director of the budget* shall then transmit said budget to the *governor who shall approve the same or shall modify or alter it so as to meet his approval and shall submit the budget as approved by him to the legislative assembly;* when the legislative assembly is not in session and additional and unanticipated federal aid becomes available, requiring an amended and/or supplemental appropriation request, then any agency, department or institution receiving such federal aid shall submit said amended and/or supplemental administrative appropriation request through the *director of the budget* to the governor for his approval before submission to the appropriate federal agency."

Repealing clause.

Section 11. That Sections 79-1002, 79-1003, 79-1004, 79-1004.1, 79-1005, and 79-1010, Revised Codes of Montana, 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 159

An Act to Amend Section 5-907, Revised Codes of Montana, 1947, Relating to Payments by Irrigation Districts, and Fixing Payments to Be Made by Day and Hour; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 5-907, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Fees to be paid by irrigation districts within 60 days for examination by state examiner.

"5-907. **Payments by irrigation districts.** For the credit of said fund, each irrigation district under the supervision of the state examiner, shall pay to the state treasurer, *within sixty (60) days from the date of examination, the following amounts as charges for such examinations, to be computed by the state examiner: For each day spent in the examination of books and records of any irrigation district by the state examiner or his representative, a charge of sixty dollars ($60.00) shall be made; and, for any fraction of a day spent in the examination of any irrigation district's books and records, a charge of seven and one-half dollars ($7.50) per hour shall be made.* It shall be the duty of the state examiner, or his representative, to notify the secretaries of such districts of the time of presenting the books and records at the courthouse for examination."

Duty of state examiner to notify.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 160

An Act Providing That a Sole Proprietor or a Member of a Partnership Consisting of Not More than Two Partners Who Own a Retail or Amusement Establishment and the Members of His Immediate Family May Do Any Work in His Place of Business; Providing That Any Union or Member Thereof Who Interferes With or Infringes on This Right Shall Be Guilty of an Unfair Labor Practice; Providing Nothing in This Act Shall Apply to an Establishment That Sells Liquor or Beer; Providing for Penalties; Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is the intent of this act that a sole proprietor or a member of a partnership consisting of not more than two partners who own a retail or amusement establishment and the members of his immediate family shall have the right to do any work in his place of business without interference by any union or any member thereof.

Right to work without union interference—when.

Section 2. Any union or member thereof who shall infringe or interfere with the right of an owner and the members of his immediate family to do any work in his place of business shall be guilty of an unfair labor practice.

Unfair labor practice.

Section 3. "Immediate family" shall include the owner, his spouse, and any children under the age of eighteen (18) years.

"Immediate family" defined.

Section 4. Nothing in this act shall apply to an establishment that sells liquor or beer.

Not applicable to liquor or beer establishment.

Section 5. Violation of any of the provisions of this act shall be punishable by a fine of fifty dollars ($50.00).

Penalty for violation.

Section 6. Any act in conflict herewith is hereby repealed.

Repealing clause.

Approved March 7, 1959.

CHAPTER 161

An Act to Amend Section 93-302, Revised Codes of Mon-

tana, 1947, as Amended by Section 1, Chapter 91 of the Laws of 1957, Relating to the Number of Judges in Each of the Judicial Districts; Providing That There Shall Be Three Judges in the Eighth Judicial District; Providing for the Appointment of a Third Judge for Said District from and After the First Monday in January 1961; Providing for the Election of Three Judges for Said Eighth Judicial District in 1960; Providing for the Repeal of All Laws in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-302, Revised Codes of Montana, 1947, as amended by section 1, chapter 91 of the Laws of 1957, be, and the same is hereby amended to read as follows:

Required number of judges in each judicial district—elected for term of four years.

"93-302. **Number of judges.** In each judicial district there must be the following number of judges of the district court, who must be elected by the qualified voters of the district, and whose term of office must be four (4) years, to wit: In the first, second, fourth, eighth, eleventh and sixteenth, two judges each, in the thirteenth, three judges, and, in all other districts, one judge each; *and from and after the first Monday in January, 1961, there must be three judges in the eighth judicial district, which third judge in said judicial district shall be nominated and elected by the electors of said district in and at the 1960 primary and general elections.*

Appointment and election of judge for eleventh district.

"Appointment and election of judge. That on or before July 1, 1957, the governor of this state shall designate and appoint a judge of the said eleventh judicial district who shall hold office until the general election to be held during the year 1958, and until his successor is elected and qualified. The judge elected at the general election during the year 1958 shall hold office until his successor has been elected and qualified at the presidential general election to be held during the year 1960."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 162

An Act to Amend Sections 4-303 and 4-414 of the Revised Codes of Montana, 1947, Relating to the Hours for Sale of Beer and Liquor in Establishments Licensed to Sell Beer and Liquor at Retail, to Provide That Establishments Licensed to Sell Beer and Liquor at Retail Shall Be Closed on Any Day of a Biennial General or Primary Election at Which State and National Officers Are Elected, During the Hours When the Polls Are Open, But Not Upon the Day of Any Other Election; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 4-303, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Closing hours for licensed retail beer dealers.

"4-303. **Closing hours for licensed retail beer establishments.** Hereafter all licensed establishments wherein beer as defined by subsection (b) of section 4-302, is sold, offered for sale or given away at retail shall be closed during the following hours:

(a) Sunday from two A. M. to one P. M.;

(b) On any other day between two A. M. and eight A. M.;

On election days.

(c) On ony day of a *biennial* general *or* primary *election at which state and national officers are elected,* during the hours when the polls are open, *but not upon the day of any other election;* provided, however, that when any municipal incorporation has by ordinance further restricted the hours of sale of beer, then the sale of beer is prohibited within the limits of any such city or town during the times such sale is prohibited by this act and in addition thereto during the hours that it is prohibited by such ordinance."

Amending clause.

Section 2. That section 4-414, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Closing hours for licensed retail liquor dealers.

"4-414. **Hours for sale of liquor.** No liquor shall be sold, offered for sale or given away upon any premises licensed to sell liquor at retail during the following hours:

(a) Sunday, from two A. M. to one P. M.;

(b) On any other day between two A. M. and eight A. M.;

On election days.

(c) On any day of a *biennial* general or primary election *at which state and national officers are elected,* during the hours when the polls are open, *but not upon the day of any other election*; *provided, however,* when any city, or incorporated or unincorporated town has any ordinance further restricting the hours of sale of liquor, such restricted hours shall be the hours during which sale of liquor at retail shall not be permitted within the jurisdiction of any such city or town."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1959.

CHAPTER 163

An Act to Repeal Section 40-1201, as Amended by Section 1, Chapter 179, Laws of Montana, 1955; Section 40-1202 and 40-1203 of the Revised Codes of Montana, 1947, Relating to the State Insurance Commission; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That section 40-1201, as amended by section 1, chapter 179, Laws of Montana, 1955 and sections 40-1202 and 40-1203 of the Revised Codes of Montana, 1947, be, and the same are hereby repealed.

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1959.

CHAPTER 164

An Act to Amend Section 11-2030, Revised Codes of Montana, 1947, Relating to the Payment of Premium Tax to the Volunteer Firemen's Compensation Fund; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11-2030, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Amending clause.

"11-2030. (5158.11) **Fire insurance premium tax to be paid into fund.** The state auditor and ex-officio commissioner of insurance of the State of Montana shall annually deposit in the 'Volunteer Fireman's Compensation Fund,' herein created, such sum as shall be equivalent to five per cent (5%) of premium taxes collected from *insurers* authorized to effect insurance against risks enumerated in *subsection 2* of section *11-1919,* as shall remain after the amounts provided for by section 11-1919 shall have been first deducted."

5% of fire insurance premium tax shall be deposited annually in volunteer fireman's compensation fund.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after January 1, 1960.

Effective January 1, 1960.

Approved March 7, 1959.

CHAPTER 165

An Act to Amend Section 84-2006 of the Revised Codes of Montana of 1947, Relating to Computation and Notice of Metalliferous Mines' License Tax and Providing That the Same Is Due and Payable on the Thirtieth Day of June Following Certification of the Tax Due to the State Treasurer; and to Amend Section 84-2007 of the Revised Codes of Montana of 1947, Relating to Penalty in Case of Delinquent License Taxes and Providing That All License Taxes Assessed Under

This Act Shall Become Delinquent on the Thirtieth Day of June Following Assessment; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 2006 of Title 84, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duty of state board of equalization to examine returns and assess license tax on metalliferous mines.

"84-2006. **Computation and notice of tax.** The state board of equalization shall examine each such statement and return filed and determine and ascertain therefrom, and compute and assess the amount of the license tax to be paid by the person making and filing the same, and shall, not later than the first day of June, certify to the state treasurer the name of each person subject to the payment of license taxes under the provisions of this act, the amount thereof to be paid by such person. The said board shall at the same time mail to each person making and filing such statement and return, a written notice of the amount of the license tax to be paid by each, respectively, that the same is due and payable to the state treasurer, and that it will become delinquent at five o'clock p. m. on the thirtieth day of *June,* immediately following, and that if the same becomes delinquent a penalty of ten per centum will be added thereto, and that the whole amount of such license tax, with penalty added, will bear interest at the rate of twelve per centum per annum from the date the same becomes delinquent until paid. If any such person, has sold or otherwise disposed of any of its mine's products at a price substantially below the true market price of such product at the time and place of such sale or disposal, then the state board of equalization shall compute the gross value of such portion of said mine's product, so sold or disposed of substantially below the market price as aforesaid, which gross value shall be based upon the quotations of the price of such mine's product in New York City, at the time such portion of the product was so sold or otherwise disposed of as evidenced by some established authority or market report, such as the Engineering and Mining Journal, of New York, or some other standard publication, giving the market reports for the year covered

Notice.

Delinquent on June 30 following assessment.

Penalty.

Interest.

by such statement. Should there be no quotation covering any particular product, then the state board of equalization shall fix the value of such gross product, or such portion thereof, as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or disposal in such a manner as may seem to be equitable."

Section 2. That Section 2007 of Title 84, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"84-2007. **Delinquent taxes—penalty.** All license taxes assessed under the provisions of this act shall become delinquent if not paid by five o'clock p. m., on the thirtieth day of *June* following the date when the same are assessed and certified to the state treasurer, and as the same become delinquent a penalty of ten per centum shall be added thereto, and the whole amount of said license tax, with penalty added, shall bear interest at the rate of twelve per centum per annum from the date of becoming delinquent until paid."

Delinquent on June 30 following assessment.

Penalty.

Interest.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 7, 1959.

CHAPTER 166

An Act to Amend Section 3-2004 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 42 of the Montana Session Laws of 1951, Relating to Fees Payable for Registered Brands or Formula of Commercial Feeds and the Disposition Thereof, to Provide That Five Per Cent (5%) of Such Fees Be Placed in the General Fund, and That Ninety-Five Per Cent (95%) of Such Fees Be Placed in the Fund Used for the Purposes Specified Herein and Disposed of in Accordance With the Terms of This Act; Providing That Five Per Cent (5%) of the Balance in Said Fund as of July 1, 1959, Be Placed in the General Fund; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 3-2004 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 42 of the Montana Session Laws of 1951, be, and the same is hereby amended to read as follows:

Fee for registration of brand or feed formula.

"3-2004. **Fee payable for each registered brand or formula—disposition of fee—feed sold in bulk.** Each and every manufacturer, importer, jobber, firm, association, corporation, or person selling, or distributing any commercial feeds as defined in section 3-2001 shall pay annually to the commissioner a registration fee of ten dollars ($10.00) for each brand or feed formula registered. In the case of mixed feeds containing more than a total of ten per cent (10%) of one or more mineral ingredients, or other unmixed materials used as mineral supplements, and in the case of mineral feeds, mixed or unmixed, which are manufactured, represented and sold for the primary purpose of correcting mineral deficiencies in rations for animals or poultry, and containing mineral ingredients generally regarded as dietary factors essential for normal nutrition, the annual registration fee shall be fifteen dollars ($15.00). *All such fees and charges so collected shall be paid to the commissioner and by him deposited with the state treasurer. The state treasurer shall place five per cent (5%) of all such fees and charges in the general fund and ninety-five per cent (95%) of all such fees and charges in the fund used for purposes specified herein which* constitutes a fund for the payment of the cost of inspections, sampling, analyses, and other expenses necessary for putting into effect the provisions of this act. When feed is sold in bulk or in packages belonging to the purchaser, the manufacturer, importer, jobber, firm, association, corporation or person so selling shall furnish the purchaser with a card or cards upon which appears the statement required by the provisions of section 3-2002.

Fees paid to commissioner and deposited with state treasurer—5% in general fund and 95% in fund for payment of costs.

Does not apply to feed mixed for personal use.

"The registration fee and tax as provided in this section shall not apply to any feed mixed according to a formula furnished by a consumer or purchaser nor to the grains furnished by the consumer or purchaser which may be ground for his own personal use. Any feed mixed to a formula furnished by a consumer or purchaser which finds general use in the community shall be registered as a brand and subject to all provisions of this act."

Distribution of Fund No. 164 on July 1, 1959.

Section 2. There is now a fund in existence, constituted in the manner and for the purposes specified in section 3-2004 of the Revised Codes of Montana, 1947, as amended by section 1, Chapter 42 of the Montana Session Laws of 1951, which fund has been designated as Fund No. 164, Commercial Feeds. Five per cent (5%) of the balance of said Fund No. 164 on July 1, 1959, shall be placed in the general fund by the state treasurer and ninety-five per cent (95%) of said balance as of said date shall remain in said Fund No. 164 to effect the purposes of the act as heretofore specified.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 167

An Act to Amend Section 75-4601 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 67 of the Laws of 1957, Relating to Participation of Additional Elected Members of Boards of Trustees of Districts Maintaining High Schools, to Provide That Said Additional Members Shall Be Entitled to Vote on the Selection of the District Superintendent of Schools.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-4601 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Boards of trustees of high school districts.

"75-4601. **High school trustees may undertake public works program—additional trustees—division of taxable valuation—commencement of proceedings.** In any county having a high school the board of trustees of the county high school, if there be one, and the boards of trustees of any school districts maintaining district high schools, are hereby designated as the boards of trustees of the respective high school districts established under this act, provided that additional members may be elected to the board of trustees of districts maintaining district high schools in the number and manner as follows: When a majority of the boards of the common school districts in the high school district so request. Such requests shall be directed to the county superintendent of schools, who shall proceed as directed in this act.

Additional members may be elected.

Determination of number of additional trustees.

"The taxable valuation of the district in which the high school is located shall be divided by the number of trustees on the high school board. In the case of a first class district this number shall be seven (7), for a second class district five (5), and for a third class district three (3). This figure obtained shall then be divided into the remaining valuation of the high school district, and the resulting number, to the closest whole number, shall be the number of additional board members to be elected; provided, that the number of these additional board members shall not exceed four (4) in districts of the first and second class or two (2) in districts of the third class.

Election of additional members.

(a) The additional members elected to the board of trustees of districts maintaining high schools shall be elected at a meeting of the trustees of all of the boards of trustees of the common school districts included within the boundaries of the high school district, which meeting shall be held on the fourth Saturday in April beginning with the year 1951. The members so elected shall hold office for a term of three (3) years and such meetings and elections shall be held every third year after the first meeting. The state superintendent of public instruction shall make all necessary rules and regulations for the conduct of said meeting and it shall be the duty of the county superintendent of schools to give written notice of the meetings by registered mail to each trustee not less than seven (7) days before such meeting. The additional trustees elected shall be elected from the trustees of the common school districts included within the high school district with the exception of the membership of the board of trustees of the school districts maintaining high schools.

Term.

Duty to give notice of meetings.

Additional trustees elected from common school districts, when.

Additional members shall participate and vote on election of superintendent of schools.

(b) The additional members elected to the board of trustees of districts maintaining high schools, shall take office immediately after qualifying and shall participate on an equal basis with other members in all business transacted by the board of trustees pertaining to the high school maintained by said districts. *Said additional elected members shall be entitled to vote on the selection of the district superintendent of schools.*

Authority of board to undertake public works program.

"To effectuate the purpose of this act, the board of trustees of any high school district, as herein provided for, is hereby authorized to undertake a program of public works in the construction, improvement or repair of buildings, furnishing and equipping the same and purchasing the necessary land therefor, for the use of any or all high schools in such high school district, and to accept funds from the United States, its instrumentalities or any of its agencies in aid of any one or more of such purposes. Such proceedings may be commenced by resolution upon the part of such board of trustees of such high school district of its own motion and without any petition being filed therefor, such proceedings may also be commenced on petition of thirty per cent (30%) of the qualified electors of the high school district. Upon presentation of this petition to the high school district board of trustees, the latter shall, within sixty (60) days take steps to present the matter asked for in the petition to a vote of the people of the high school district."

Procedure.

Resolution.

Petition.

Vote.

Approved March 7, 1959.

CHAPTER 168

An Act to Amend Section 75-1632, Revised Codes of Montana, 1947, Relating to Duties of Trustees of Schools; Providing for Amendment of Only Sub-section 24. Thereof, and Making Fee Sixty Dollars ($60.00) Per Day for Examinations, and Deleting Requirements for Payment of Transportation and Per Diem; Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1632, Revised Codes of

Montana, 1947, be, and the same is hereby amended to read as follows:

Duties of school board.

"75-1632. **Duties of trustees.** Every school board unless otherwise specially provided by law shall have power and it shall be its duty:

Rules.

1. To prescribe and enforce rules not inconsistent with law, or those prescribed by the superintendent of public instruction for their own government of schools under their supervision.

Employment of teachers.

2. To employ or discharge teachers, mechanics or laborers, and to fix and order paid their wages; provided, that no teacher shall be employed except under resolution agreed to by a majority of the board of trustees at a special or regular meeting; nor unless such teacher be the holder of a legal teacher's certificate in full force and effect. All contracts of employment of teachers, authorized by proper resolution of a board of trustees, shall be in writing and executed in duplicate by the chairman and clerk of the board, for the district and by the teacher.

Tuition for non-resident pupils.

3. To determine the rate of tuition of non-resident pupils.

Clerk's salary.

4. To fix the compensation of the clerk.

Rules of superintendent of public instruction.

5. To enforce the rules and regulations of the superintendent of public instruction for the government of schools, pupils, and teachers and to enforce the course of study.

School supplies.

6. To provide for school furniture and for everything needed in the schoolhouse or for the use of the school board.

Repair and rent of school buildings.

7. To repair and insure schoolhouses and to rent, lease and let to such persons or entities as the board may deem proper, the grade school halls, gymnasium and buildings and part thereof for such time and rental as the board may designate. All rentals shall be paid to the county treasurer for the credit of the school district.

School lands and buildings.

8. To purchase, acquire, sell and dispose of plots or parcels of land to be used as sites for schoolhouses, school dormitories and other school buildings, and for

other purposes in connection with the schools in the district; to build, purchase or otherwise acquire schoolhouses, school dormitories and other buildings necessary in the operation of schools of the district, and to sell and dispose of the same; provided, that they shall not build or remove schoolhouses or dormitories, nor purchase, sell or locate school sites unless directed so to do by a majority of the electors of the district voting at an election held in the district for that purpose, and such election shall be conducted and votes canvassed in the same manner as at the annual election of school officers, and notice thereof shall be given by the clerk by posting three (3) notices in three (3) public places in the district at least ten (10) days prior to such election, which notices shall specify the time, place and purpose of such election. Provided, further, that this subdivision shall not be so construed as to prevent the board of trustees from purchasing one (1) or more options for a school site.

Trustees of school property.

9. To hold in trust for their district all real or personal property for the benefit of the school thereof.

Pupils.

10. To suspend or expel pupils from school who refuse to obey the rules thereof, and to exclude from school, children under six (6) years of age where the interest of the school requires such exclusion.

Aid to children.

Health.

11. To provide clothing and medical aid for indigent children when it shall be made to appear that such aid is needed; and when deemed advisable to employ a physician or registered nurse to make inspection into the sanitary conditions of the school and the general health conditions of each pupil, and to make a full, detailed report to the board of trustees. The clerk of the district shall furnish immediately to each parent or guardian a copy of such portion of the above mentioned report as pertains to his child or ward.

Books.

12. To require pupils to be furnished with suitable books as a condition of membership in school.

Exclusion of immoral literature.

13. To exclude from school and school libraries all books, tracts, papers and other publications of immoral and pernicious nature.

Teachers.

14. To require teachers to conform to the law.

Annual report by August 1, of each year.

15. To make an annual report as required by law, to the county superintendent on or before the first day of August in each year, in the manner and form and on the blanks prescribed and furnished by the superintendent of public instruction.

Reports to superintendent of public instruction.

16. To make a report directly to the superintendent of public instruction whenever instructed by him to do so.

What shall be taught.

17. To determine what branches, if any, in addition to those required by law, shall be taught in any school in the district, subject to the approval of the county superintendent in districts of the third class.

Examination of schools.

18. To visit every school in their district at least once in each term, and to examine carefully into its management, conditions, and needs. This clause applies to each of the trustees.

Sanitary facilities.

19. To provide separate privies or outhouses for the use of the sexes at all schoolhouses, where the same do not exist, and to see that the same are kept in good repair, and in a clean condition. Such privies or outhouses must be located and built in such manner as to secure privacy. In all cases where there is no fence dividing the play yards of the sexes, the privies or outhouses herein named shall be separate and distinct buildings, and situated at least twenty (20) feet apart, and to require that all teachers and janitors use due care in keeping all toilets in good repair and in clean condition and free from obscenity; provided, that any trustee or trustees, teacher, janitor, or janitors, failing to comply with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars ($100.00), or imprisoned in the county jail not exceeding ninety (90) days, or both such fine and imprisonment in the discretion of the court.

Penalty.

Admission of non-resident pupils.

20. To allow pupils residing in other districts to attend school in the district of which they have charge, if in their judgment there is sufficient room.

American flags.

21. To procure, by purchase or donation, and to cause to be displayed daily in suitable weather, an American flag, with accompanying necessary fixtures, for each

and every schoolhouse in their respective districts. Said flags shall be of dimensions not less than four (4) by six (6) feet, and shall be made from durable material. The school trustees are hereby authorized and empowered to use such portion of the school funds as remain in their hands, and which is not otherwise appropriated, for the purchase and erection of fixtures.

Teachers' convention.

22. To close school at their discretion during the annual session of the state teachers' association, and to allow teachers to attend the same without loss of salary.

School lunches.

23. To provide foods, cooks, janitor services and equipment for school lunches when deemed advisable by the board. Governed by its own judgment, the board may impose a money charge, produce or services from the pupils desiring to and participating in the program of school lunches.

Accounting systems.

Fee for state examiner.

Audit.

24. To provide for a system of bookkeeping and annual auditing of extracurricular funds; such bookkeeping system to be recommended by the state examiner and such audit to be made by a qualified accountant or by the state examiner if so requested. If the audit is made by the state examiner, then, there shall upon completion of the audit, be paid a fee of *sixty dollars ($60.00)* per day per man, into the state treasury, and the state treasurer shall accredit such payment to the special examiner's fund. A certified copy of such audit shall be filed with the county superintendent of schools, and notice of such filing and the availability of the audit to public inspection, shall be published by said superintendent in the next publication of a newspaper published within the district, or, in case there be no paper published within the district, in a newspaper published within the county, if any, and if none within the county then in the nearest newspaper published in an adjoining county and payment of such publication and audit shall be made from the extracurricular funds or from school district funds, as the board of trustees may decide."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 169

An Act to Amend Section 28-101 of the Revised Codes of Montana, 1947, Relating to State Board of Forestry to Provide for the Protection and Conservation of Forest Resources, Forest Range and Water, Regulation of Stream Flow, the Prevention of Forest Fires; to Strike the Restriction Against Payment of a Salary for the State Forester; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 28-101 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

State board of forestry for conservation of forest resources.

"28-101. **State board of forestry created—membership.** For the purpose of protection and conservation of forest resources, forest range and water, of regulation of stream flow, and of prevention of soil erosion, and for the further purpose of more adequately promoting and facilitating the cooperation, financial and otherwise, between the State of Montana and all of the public and private agencies with which it is now or later may be associated in such work, there is hereby created the Montana state board of forestry, hereinafter designated as the board. The board shall consist of the governor of the State of Montana, who shall be ex officio chairman of the board, and seven additional members who shall be appointed by the governor as follows:

Membership.

(1) One member of the state water conservation board of Montana, upon the recommendation of this board.

(2) One elector of the State of Montana upon the joint recommendation of the Blackfoot forest protective association and the northern Montana forestry association or their successors.

(3) One elector of the State of Montana upon the joint recommendation of the Montana stock growers' association and the Montana wool growers' association or their successors.

(4) One elector of the State of Montana who shall

be a representative farm woodland owner, owning not less than forty (40) acres and not more than four hundred (400) acres of forest land classified as such by the board. This member shall be appointed by the governor from individual recommendations to be submitted by the three farmers' organizations—the Montana state grange, the Montana farm bureau federation and the Montana farmers' union or their successors.

(5) One elector of the State of Montana upon the recommendation of the Montana lumber manufacturers' association or its successors.

(6) One elector of the State of Montana who shall be a member of the faculty of the Montana school of forestry upon the recommendation of the president of the Montana state university.

(7) One elector of the State of Montana on the recommendation of the regional forester, region one, U. S. forest service.

Term, four years.

Appointment in event of death.

Two regular yearly meetings.

Governor as ex-officio chairman.

State forester as secretary—salary.

No pay to members.

Expenses of members.

"The members appointed shall serve for a term of four (4) years, or during their continuance in office, as the case may be. In the event of death, resignation or disqualification of any member of the board, his successor shall be appointed in the same manner that he was appointed, and shall serve for the remainder of his term. The board shall hold two (2) regular meetings each year at the times and places designated by it. The dates of such regular meetings shall be shown in the permanent minute book of the board and notice of the date, time and place of each meeting shall be given in the manner prescribed by the board. The governor as ex officio chairman shall designate a member of the board to serve as acting-chairman of the board for such meetings as he personally is unable to attend. The state forester of Montana shall serve as secretary of the said board, *and the board may contribute to his salary as indicated by section 81-1403.* No compensation shall be paid to any member of the said board by the State of Montana for any services rendered or work done, except that members of the board attending authorized regular or special meetings for transacting official business will be allowed actual expenses in attendance at such meetings. Special meetings may be called in the manner prescribed by the board."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 170

An Act to Amend Section 92-827, Revised Codes of Montana, 1947, Relating to the Record of Proceeding Before the Industrial Accident Board and Providing for Furnishing a Copy Thereof to the Claimant Without Cost.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-827, Revised Codes of Montana, 1947, be amended to read as follows:

Record of proceedings before industrial accident board.

"Section 92-827. **Record of proceedings to be kept and testimony to be taken down—attorney's fees.** A full and complete record shall be kept of all proceedings and hearings had before the board, or any member thereof, of any formal hearing had, and all testimony produced before the board or any member thereof shall be taken down by a stenographic reporter appointed by the board, and the parties shall be entitled to be heard in person or by attorney.

Attorney's fees.

"Whenever the claimant or plaintiff is represented by an attorney either before the board or the courts, the industrial accident board may, in its discretion or upon the application of the claimant or plaintiff, fix the amount of the attorney fee of the attorney representing the claimant or plaintiff, and the fee fixed by the board shall be paid by claimant or plaintiff.

Duty of board to furnish copy of record without cost.

"In cases of an action to review any order or decision of the board, a transcript of such testimony, together with all exhibits, and of the pleadings, records, and proceedings in the cause shall constitute the record of the board. *Provided further, that the board must furnish a* *copy of such testimony, written exhibits, pleadings, records and proceedings to the claimant without cost.''*

Approved March 7, 1959.

CHAPTER 171

An Act Providing for a Section to Be Known as Section 11-2710 and Authorizing County Commissioners to Exercise Building and Zoning Regulatory Powers; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That the section to be known as section 11-2710 be, and the same shall read as follows:

Powers of board of county commissioners represented on city-county planning board.

''11-2710. Where a board of county commissioners is represented upon a city-county planning board formed under sections 11-3801 through 11-3858, Revised Codes of Montana, 1947, all the powers relating to zoning granted to cities in the preceding sections 11-2701 through 11-2709 may be assumed by the aforesaid board of county commissioners as relating to lands in the jurisdictional area and outside the corporate limits of any city or town.''

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 172

An Act to Amend Section 84-2202 of the Revised Codes of Montana, 1947, as Amended by Chapter 221 of the Laws of Montana, 1957, Relating to the Amount of the Oil Producers' License Tax, and Providing a Revised Formula for the Computation of the Rates of Such Tax; Providing for an Effective Date; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-2202 of the Revised Codes

of Montana as amended by chapter 221 of the laws of Montana, 1957, be, and the same is hereby amended to read as follows:

Oil producers license tax.

"84-2202. **Oil producers' license tax—amount—exceptions.** Every person engaging in or carrying on the business of producing, within this state, petroleum, or other mineral or crude oil, or engaging in or carrying on the business of owning, controlling, managing, leasing or operating within this state any well or wells from which any merchantable or marketable petroleum or other mineral or crude oil is extracted or produced, sufficient in quantity to justify the marketing of the same, must, for the year beginning July 1, 1957, and each year thereafter, when engaged in or carrying on any such business in this state, pay to the state treasurer, for the exclusive use and benefit of the State of Montana, a license tax for engaging in and carrying on such business, computed at the following rates:

Computation.

(a) two per cent of *the total gross value of that portion of all the petroleum and other mineral or crude oil produced by such person from each lease or unit in the calendar quarter not in excess of an amount obtained by multiplying the number of producing wells on such lease or unit by four hundred fifty (450) barrels.*

Exceptions.

(b) two and one-half per cent of the total gross value of *that portion of all the production of such person from each lease or unit in each calendar quarter in excess of four hundred fifty (450) barrels multiplied by the number of producing wells on such lease or unit;* but in determining the amount of such tax there shall be excluded from consideration all petroleum, or other crude or mineral oil produced and used by such person during such year in connection with his operations in prospecting for, developing and producing such petroleum, crude or mineral oil; provided, however, that nothing in this act shall be construed as requiring laborers or employes, hired or employed by any person, to drill any oil well, or to work in or about any oil well, or prospect or explore for, or do any work for the purpose of developing any petroleum or other mineral or crude oil to pay such license tax, nor shall any work be done, or the drilling of any well or wells, for the purpose of prospecting or exploring for petroleum or other mineral or crude oils, or for the purpose of developing same, be deemed to be engaging in or carrying on of any such business; provided, further, that in the doing of any such work, or in the drilling of any oil well, or in such prospecting, exploring or development work, any merchantable or marketable petroleum or other mineral or crude oil in excess of the quantity required by such person for carrying on such operation shall be produced sufficient in quantity to justify the marketing of the same, then such work, drilling, prospecting, exploring or development work shall be deemed to be the engaging in and carrying on of such business within this state within the meaning of this section."

Section 2. This act shall be in full force and effect from and after its passage and approval. **Effective immediately.**

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Approved March 7, 1959.

CHAPTER 173

An Act to Amend Section 79-1202, Revised Codes of Montana, 1947, as Amended by Chapter 118, Laws of Montana, 1957, Relating to the Investment of Moneys in the Long Term Investment Fund; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 79-1202, Revised Codes of Montana, as amended by chapter 118, laws of Montana, 1957, be, and the same is hereby amended to read as follows: **Amending clause.**

"79-1202. **Funds to be invested according to unified plan.** **Investment of funds.**

"1. The state board of land commissioners is hereby authorized and required to invest as part of the Montana trust and legacy fund the following: The public school

Power and duty of state land board to invest school fund, land grant fund, escheated estate fund, long term investment funds, etc.

permanent fund, the other permanent funds originating in land grants from the United States for the support of higher institutions of learning, and for other state institutions of learning, subject to investment; the escheated estates funds, meaning all of the various sums paid over to the state treasurer from estates escheated or escheating to the state which have not been transferred to the public school permanent fund; all funds arising from any donation, gift, grant, bequest or devise for the support, maintenance or benefit of any institution of learning or any institution supported in whole or in part by the State of Montana and not intended for immediate use but subject to long term investment and not legally in the custody of any lawfully constituted board, unless some other investment agency has been designated by the donor or by statute; all funds which become parts of the Montana trust and legacy fund under the provisions of article XXI of the constitution; and all other public funds of the state subject to long term investment not legally in the custody of any lawfully constituted board or the investment of which has not been designated by statute. Moneys in the Montana trust and legacy fund shall be invested subject to the provisions, regulations and limitations of sections 81-1001 to 81-1008, inclusive.

Retirement funds, fish and game fund and all funds designated by statute.

"2. The state board of land commissioners is hereby authorized and required to invest in the long term investment fund the following: That part of the Montana highway patrolmen's retirement fund in excess of twenty-five thousand dollars ($25,000.00); the public employees' retirement fund; the industrial accident reserve fund; all funds subject to investment as designated by the teachers' retirement board; that part of the fish and game fund designated as available by the Montana fish and game commission and all other funds designated by statute. Moneys in the long term investment fund may be invested as follows:

Authorized securities.

(a) In or upon securities which are direct obligations of the United States government; securities which are guaranteed as to principal and interest by the United States government; securities issued by instrumentalities of the United States government.

Bonds.

(b) In general obligation bonds of school districts within the State of Montana; in general obligation bonds of the several counties and cities of the State of Montana; in general obligation bonds of the State of Montana; in capitol building bonds of the State of Montana, now issued or which may hereafter be issued; in bonds issued by the federal land banks; *in bonds issued by the state board of examiners to construct an unemployment compensation commission office building including the landscaping and paving around said building, upon land adjacent to the capitol buildings;* in interest-bearing warrants upon the general fund of the state and in interest-bearing warrants upon the general fund, the poor fund, the road fund, or upon the bridge fund of the several counties of the State of Montana; the purchase of all such investments to be subject to the discretion of the board.

Debentures.

(c) In debentures issued by the federal housing administrator, and in obligations of national mortgage associations.

Mortgages.

(d) In first mortgages on unencumbered real property when such mortgages are guaranteed or insured in the amount of fifty per centum (50%) or more of the loan made in the event of default by the United States government or an agency or corporate agency of the United States government and in obligations of housing authorities subject to the terms and limitations of section 35-143, provided, however, no more than fifty per centum (50%) of the funds in one (1) account shall be invested in such mortgages. All securities purchased and all cash on hand for each fund shall be kept separate in the long term investment fund and all interest collected shall be credited to the fund for which the securities were purchased.

Short term investments of surplus cash.

"3. The state board of land commissioners is hereby authorized and required to invest in the short term investment fund any surplus cash in the office of the state treasurer; any money in any state bond sinking and interest fund, which is not required for the immediate payment of any bond principal or interest, or which cannot be used for payment and redemption of bonds outstanding because of the same not being redeemable under the option provisions contained therein; any educational bond interest and sinking fund; any of the Montana highway patrolmen's retirement fund less than twenty-five thousand dollars ($25,000.00) as directed by the Montana highway patrolmen's retirement board and any other fund designated by statute to be so invested or any fund in the custody of any officer or officers of the state, or any governing body of any city, county or school district, the investment of which fund is requested by the officer, or officers or governing body and which fund is subject to investment. The funds in the short term investment fund may be invested as follows:

Warrants.

(a) The surplus cash in the office of the state treasurer may be invested in registered warrants of the State of Montana and in treasury obligations of the United States government. All warrants purchased shall bear no interest and the interest received from treasury obligations shall be credited to the general fund of the State of Montana.

Bonds.

(b) Any sinking and interest fund and any other funds may be invested in bonds of the State of Montana, bonds of the United States, in bonds issued by any agency or department of the United States, treasury obligations of the United States, and in interest-bearing warrants drawn against the general fund of the State of Montana; provided, however, that none of such moneys in any sinking and interest fund shall be invested in bonds or securities except such as will be called in and paid at least fifteen (15) days prior to the time such moneys are required for the payment of principal and interest of the obligations for which the sinking and interest fund was created.

Securities.

All securities purchased and all cash on hand for each fund shall be kept separate in the short term investment fund and all interest collected shall be credited to the fund for which the securities were purchased.

Employment of finance expert.

The state board of land commissioners is hereby authorized to employ, for the purpose of securing advice on retention, sale or purchase of securities, an expert on financial matters who has had a minimum of ten (10) years experience in the investment field and there shall not be paid for such services an amount in excess of one thousand dollars ($1,000.00) in any one fiscal year."

Limitation $1,000.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its date of passage and approval.

Effective immediately.

Approved March 7, 1959.

CHAPTER 174

An Act Relating to the Creation of a Sanitarians Registration Council, Appointed by the Montana State Board of Health; Providing Definitions of Terms; Manner of Registration of Sanitarians by Examination and Without Examination Under Certain Circumstances; Establishing Fees; Providing the Manner and Grounds for Revocation of Certificates by the Board of Registered Sanitarians; Providing Penalties for Practicing as a Registered Sanitarian Without a Certificate; Prescribing Minimum and Maximum Penalties for Violations of This Act and Conferring Jurisdiction Over All Prosecutions Hereunder Upon the District Court; Empowering the Sanitarians Registration Council to Issue Certificates of Registration to Sanitarians Registered by Another State; Providing the Manner of Review of Decisions of the Council and Manner of Service of Legal Papers Upon the Council; Directing That Unconstitutionality of a Part of This Act Shall Not Affect or Impair the Remainder; and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** "Board" means the Montana state board of health. "Council" means the sanitarians registration council, hereby created. "Sanitarian" is a person who is trained in physical, biological and sanitary sciences to carry out inspectional and educational duties in the field of environmental sanitation. "Registered sanitarian" is a sanitarian registered in accordance with the provisions of this act. "Certificate of registration" is a document showing the name of a registered sanitarian, the date of issue, serial number, and

Definitions—"board," "council," "sanitarian."

"Registered sanitarian."

"Certificate of registration."

bearing the signatures of the designated members of the council hereby authorized to grant such certificate and under the seal of said council. "Montana association of sanitarians" means an organization of Montana sanitarians affiliated with the National association of sanitarians. "Montana joint merit council" is an authorized group for screening applicants for state employment.

"Montana Association of sanitarians."

"Montana Joint Merit Council."

Establishing of sanitarians registration council—three members appointed by state board of health.

Section 2. **Sanitarians registration council.** A council to be known as the sanitarians registration council is hereby established to consist of three (3) sanitarians appointed by the board. The initial council shall be selected by the board from a list of not less than four (4) qualified and practicing sanitarians whose names shall be submitted to the board by the Montana association of sanitarians at least thirty (30) days prior to the next appointment date. On July 1, 1959, or as soon thereafter as is practicable, the members of the first council shall be appointed. One (1) member shall be a sanitarian employed by the board and shall act as secretary-treasurer. The term of the secretary-treasurer shall be for one (1) year and shall be appointed yearly, thereafter, by the board. One (1) member shall serve two (2) years, one (1) member shall serve three (3) years, and members thereafter shall serve for a period of three (3) years or until qualified successors are appointed. The members of the council shall serve without compensation but shall be reimbursed for their actual and necessary traveling and other expenses while engaged in the business of the council. The council shall, at its first meeting after July 1, 1959, elect from its members a chairman to serve until the first November meeting, and adopt a common seal for the authentication of its orders and records. The members of the council shall meet during the month of November of each year, the first meeting to be in November, 1959, and at such other times and places as the council may determine. The chairman and secretary-treasurer shall have power to administer oaths in examination of applications for certificates, and to witnesses called before the board for the transaction of business under the provisions of this act. The council shall keep a record of all its proceedings and a register disclosing the names, ages, and addresses of all applicants for a certificate, and whether

Appointment of members—terms—beginning July 1, 1959.

Expenses.

Duty to appoint chairman and adopt seal.

Meetings.

Power to administer oaths.

Records of proceedings.

each application was granted or denied. Such register shall constitute prima facie evidence of all matters therein entered. The council shall accept applications for registration, grant or deny the same, order and conduct hearings upon applications when it determines in its discretion such hearings are necessary, issue certificates to persons granted registration, order and conduct hearings to revoke or suspend registration, adopt such rules and regulations not inconsistent with this act as it determines are necessary and proper for its function and administration, and not inconsistent with the board.

Register.

Applications for registration.

Hearings.

Rules.

Section 3. **Application for registration by examination.** Any person, upon the payment of the fees prescribed herein, may apply to the council for registration on forms provided for that purpose. Each applicant shall submit evidence and prove to the satisfaction of the council that he meets one of the following qualifications for registration hereunder. (a) That he or she has qualified, as required by the board and the joint merit council, and successfully passed the examination for sanitarian 1 or higher. (b) That he or she was a resident of the State of Montana for one (1) year immediately preceding the passage and approval of this act and that he or she was engaged as a professional sanitarian in the State of Montana for one (1) year immediately preceding July 1, 1959, providing that registration shall not be granted under this subsection unless the application therefor is filed with the council within one (1) year after the passage and approval of this act. (c) The council shall issue a certificate of registration to all applicants who meet the above qualifications. (d) An applicant for examination may, in the discretion of the council, be given a temporary certificate to practice as a registered sanitarian prior to taking the examination. The term of such certificate shall not exceed one (1) year.

Procedure for application for certificate of registration as sanitarian.

Section 4. **Fees.** Applicants for registration shall pay a fee of twenty dollars ($20) at the time of making application. A sanitarian registered under the provisions of this act may renew his certificate by paying an annual fee as set by the board, but not to exceed ten dollars ($10). All fees collected shall be paid to the board of health and held in a special fund and shall be used to

Fees.

Special fund.

defray the cost of administration of this act in accordance with a budget developed by the council and the board. All fees shall be due and payable on or before the first day of July for the current year for which the renewal certificate shall be issued. All certificates shall expire on the renewal date unless renewed prior to such date. Registrations which have lapsed for failure to pay renewal fees may be reinstated under regulations adopted by the council.

Renewal fee due July 1.

Power of council to revoke or suspend.

Section 5. **Revocation or suspension.** The council shall have the power to revoke or suspend the certificate of registration of any registrant for unprofessional conduct or the practice of any fraud or deceit in obtaining registration, or any gross negligence, incompetency or misconduct in the practice of professional sanitation, or upon the conviction of any crime involving moral turpitude, provided, however, that no revocation of certificate shall become effective until after a hearing, duly noticed, is held and the registrant given the opportunity to appear in person or by counsel and to answer the charges which have been filed against him with the council and to produce evidence and witnesses on his behalf and to cross-examine witnesses.

Penalty.

Misdemeanor.

Section 6. **Penalty.** After January 1, 1960, no person shall offer his services as a sanitarian or use, assume, or advertise in any way, any title, or description tending to convey the impression that he is a sanitarian unless he is a holder of a current certificate of registration as provided in this act. A holder of a current certificate is entitled to append to his name the letters "R.S." Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200), or imprisonment in the county jail for not less than ten (10) days nor more than ninety (90) days, or both. The district court shall have jurisdiction of all prosecutions brought under this act.

Reciprocity.

Section 7. **Reciprocity.** The council shall issue a certificate of registration without examination to any person who makes application on forms prescribed and furnished by the council, pays the registration fee of twenty dollars ($20) and submits satisfactory proof that: (1) he is of good moral character. (2) he is registered as a sanitarian in a state in which the qualifications for registration are not lower than the qualifications for registration in this state at the time he applies for registration.

Section 8. **Appeal procedure.** Any party aggrieved by any decision or act of the council may seek a review thereof in the district court of the first judicial district of the State of Montana in the manner set forth in sections 93-9001 to 93-9011, inclusive, Revised Codes of Montana of 1947, and said court shall affirm, reverse, or modify the findings of said board in accordance with law.

Appeal procedure.

Section 9. **Service of process.** When any petition or complaint is filed in any court naming the Montana sanitarians registration council as a party, process may be served upon the said council by delivering to and leaving with the secretary-treasurer of said council a true copy of the summons, writ, or order, as the case may be, and a true copy of the complaint, petition, or application upon which such summons, writ, or order was based.

Service of process.

Section 10. **Severability.** If any section, subdivision, sentence or word of this act shall be determined by a court of competent jurisdiction to be unconstitutional or inoperative, it shall not affect the remaining portions of this act.

Saving clause.

Section 11. **Repealing clause.** All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 7, 1959.

CHAPTER 175

An Act to Amend Chapter 18, Title 84 of the Revised Codes of Montana, 1947, By Adding Thereto a New Section to Be Numbered 84-1802.1, and Providing for the Payment or the Credit and Setoff of the Tax Upon Gasoline in Storage on the Date of Increase or Decrease in the Rate of Tax Imposed on Gasoline, Providing That Power to Determine the Validity of Such

Claims Shall Rest in the State Board of Equalization; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That chapter 18, title 84 of the Revised Codes of Montana, 1947, be, and the same is hereby amended by adding thereto a new section to be numbered 84-1802.1, and reading as follows:

Payment or credit of gasoline tax in event of change in rate.

"84-1802.1. Payment or credit of gasoline tax in event of change in rate of said tax. In the event of an increase in the rate of tax imposed by the State of Montana upon gasoline, each dealer shall pay over to the board of equalization, in the manner herein provided, such additional amount of tax upon all gasoline in storage or in transit on the date of such increase in the rate of tax upon gasoline. In the event of a decrease in the rate of tax imposed upon gasoline, each dealer who shall have previously paid the greater tax shall be entitled to a credit or setoff for the amount of such differential in the rate of tax on gasoline in storage or in transit on the date of such decrease in the rate of tax. Said payment of tax or credit and setoff of tax shall be transmitted to the board of equalization within forty-five (45) days of such increase or decrease in the rate of tax upon gasoline, and shall be accompanied by an affidavit of said dealer containing a true and correct inventory of gasoline in storage or in transit on the date of increase or decrease in the rate of tax imposed on gasoline, except that a credit or setoff of tax shall be allowed in the manner provided herein on gasoline in storage or in transit on January 16, 1958, if the same be filed with the board of equalization within forty-five (45) days from and after the effective date of this act. The state board of equalization shall have the power to audit the records necessary to determine the validity of any claim."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 176

An Act to Amend Section 84-2004, Revised Codes of Mon-

tana as Amended by Chapter 220, Session Laws of 1957, Relating to Metalliferous Mines License Tax, Providing for an Effective Date and Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-2004, Revised Codes of Montana, 1947, as amended by chapter 220, session laws of 1957, be, and the same is hereby amended to read as follows:

Schedule of license tax to be paid by metalliferous mine operators.

"84-2004. **Amount to tax:** The annual license tax to be paid by such person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead or any other metal or metals, precious or semi-precious gems or stones are produced, shall be one dollar, together with an additional sum or amount computed on the gross value of product which may have been derived by such business, work or operation within this state during the calendar year immediately preceding, at the following rates *one-half of one per cent (½ of 1%)* of the amount by which such gross value of product exceeds one hundred thousand dollars ($100,000) and does not exceed two hundred and fifty thousand dollars ($250,-000; *three-fourths of one per cent (¾ of 1%) of the* amount by which such gross value of product exceeds two hundred and fifty thousand dollars ($250,000) and does not exceed four hundred thousand dollars ($400,000); *one per cent (1%)* of the amount by which the gross value of product exceeds four hundred thousand dollars ($400,000) and does not exceed five hundred thousand dollars ($500,000) and one and one-fourth per cent (1¼%) of the amount by which the gross value of product exceeds five hundred thousand dollars ($500,000)."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1959.

CHAPTER 177

An Act to Amend Section 87-148, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 160 of the Laws of 1953, as Amended by Section 9, Chapter 164, Laws of 1955, as Amended by Section 11, Chapter 171, Laws of 1957, Relating to Excluding from the Term ''Employment'' Covered by Said Act of Persons Performing Part-time Services for Churches, Charities, Benevolent, Fraternal, Nonprofit Societies and Like Associations as Defined in Section 15-1401, Revised Codes of Montana, 1947, Repealing All Acts In Conflict Herewith and Providing That This Act Be Effective from and After Its Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 87-148, Revised Codes of Montana, 1947 as amended by section 1, chapter 160 of the laws of 1953, as amended by section 9, chapter 164, laws of 1955, as amended by section 11, chapter 171, laws of 1957; be, and the same is hereby amended to read as follows:

Definitions.

''87-148. **Definitions.** As used in this act, unless the context clearly requires otherwise:

"Annual payroll."

(a) (1) 'Annual payroll' means the total amount of wages paid by an employer (regardless of the time of payment) for employment during a calendar year.

"Average annual payroll."

(2) 'Average annual payroll' means the average of the annual payrolls of an employer for the last three (3) or five (5) preceding calendar years, whichever average is higher.

"Benefits."

(b) 'Benefits' means the money payments payable to an individual, as provided in this act, with respect to his unemployment.

"Base period."

(c) 'Base period' means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

"Benefit year."

(d) 'Benefit year' with respect to any individual means, the fifty-two (52) consecutive-week period beginning with the first day of the calendar week in which such individual files a valid claim, and thereafter the fifty-two (52) consecutive-week period beginning with the first day of the calendar week in which such individual files his next valid claim after the termination of his last preceding benefit year, provided that if such filing shall result in an overlapping of benefit years the new benefit year shall begin upon the first Sunday following the expiration of his last preceding benefit year.

"Calendar quarter."

(e) 'Calendar quarter' means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31.

"Commission."

(f) 'Commission' means the unemployment compensation commission established by this act.

"Contribution."

(g) 'Contribution' means the money payments to the state unemployment compensation fund required by this act.

"Employing unit."

(h) 'Employing unit' means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one (1) or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

"Employer."

(i) 'Employer' means: (1) Any employing unit which for some portion of a day in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or the preceding calendar year, has or had in employment, one or more individuals (irrespective of whether the same individuals are or were employed in each such day); or whose total annual payroll within either the current or the preceding calendar year, exceeds the sum of five hundred dollars ($500.00);

(2) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(3) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this act), and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which, having become an employer under paragraph (1), (2) or (3) has not, under section 87-110, ceased to be an employer subject to this act; or

(5) For the effective period of its election pursuant to section 87-110 (c) any other employing unit which has elected to become fully subject to this act.

"Employment."

(j) (1) 'Employment' subject to other provisions of this subsection means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied,

(2) The term 'employment' shall include an individual's entire service, performed within or both within and without this state if:

(A) The service is localized in this state; or

(B) The service is not localized in any state but some of the service is performed in this state and (I) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (II) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(3) Service not covered under paragraph (2) of this subsection, and performed entirely without this state with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this state and the commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

(4) Service shall be deemed to be localized within a state if—

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the commission that:

(A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

Excluded from "employment."

(6) The term 'employment' shall not include:

"Agricultural labor."

(A) Agricultural labor; The term 'agricultural labor' includes all services performed—

(1) On a farm, in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of maple syrup or maple sugar or any commodity commonly known as agricultural commodities, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

(4) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

"Farm" defined.

(5) As used in this section, the term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily

for the raising of agricultural or horticultural commodities and orchards.

(B) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority;

Domestic service.

(C) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

Employment on a vessel.

(D) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his father or mother;

Employment by member of family.

(E) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or wild life and anglers clubs or associations, *and services performed in the employ of churches, charities, benevolent, fraternal, nonprofit societies and like associations as defined in section 15-1401, Revised Codes of Montana, 1947, where said services are on a part-time basis and do not constitute the major portion of income to the individual performing such services,* no part of the net earnings of which inures to the benefit of any private shareholder or individual;

Employment by charitable organizations.

Part-time basis.

(F) Service performed in the employ of this state, or of any political subdivision thereof, or of any instrumentality of this state or its political subdivisions;

Employment by state or political subdivision.

(G) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States, except that national banks organized under the national banking law shall not be entitled to exemption under this section and shall be subject to this act the same as state banks;

Employment by other state or federal government.

(H) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; provided, that the commission is hereby authorized and directed to enter into agreements with the proper agencies

Employment coming under unemployment compensation system of federal government.

under such act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner in section 87-121 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this act;

Employment in distribution of newspapers.

(I) Services performed in the delivery and distribution of newspapers or shopping news from house to house and business establishments by any individual under the age of eighteen (18) years, but not including the delivery or distribution to any point or points for subsequent delivery or distribution.

"Employment office" defined.

(k) 'Employment office' means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, or such other free public employment offices operated and maintained by the United States government or its instrumentalities, as the commission may approve.

"Fund."

(l) 'Fund' means the unemployment compensation fund established by this act, to which all contributions required and from which all benefits provided under this act shall be paid.

"State."

(m) 'State' includes, in addition to the states of the United States of America, Alaska, Hawaii, the District of Columbia, Puerto Rico, the Virgin Islands, and the Dominion of Canada.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1959.

CHAPTER 178

An Act to Amend Section 87-148 of the Revised Codes of

Montana, 1947, as Amended by Chapter 171, Laws of Montana, 1957; Excluding from the Term Employment, as Defined by the Unemployment Compensation Law, Services Performed by Certain Real Estate and Insurance Salesmen; Repealing All Acts and Parts of Acts In Conflict Herewith; and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 87-148 of the Revised Codes of Montana, 1947, as amended by chapter 171, laws of Montana, 1957, be, and the same is hereby amended to read as follows:

Definitions.

"87-148. **Definitions.** As used in this act, unless the context clearly requires otherwise:

"Annual payroll."

(a) (1) 'Annual payroll' means the total amount of wages paid by an employer (regardless of the time of payment) for employment during a calendar year.

"Average annual payroll."

(2) 'Average annual payroll' means the average of the annual payrolls of an employer for the last three (3) or five (5) preceding calendar years, whichever average is higher.

"Benefits."

(b) 'Benefits' means the money payments payable to an individual, as provided in this act, with respect to his unemployment.

"Base period."

(c) 'Base period' means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

"Benefit year."

(d) 'Benefit year' with respect to any individual means, the fifty-two (52) consecutive-week period beginning with the first day of the calendar week in which such individual files a valid claim, and thereafter the fifty-two (52) consecutive-week period beginning with the first day of the calendar week in which such individual files his next valid claim after the termination of his last preceding benefit year, provided that if such filing shall result in an overlapping of benefit years the new benefit year shall begin upon the first Sunday following the expiration of his last preceding benefit year.

"Calendar quarter."

(e) 'Calendar quarter' means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31.

"Commission."

(f) 'Commission' means the unemployment compensation commission established by this act.

"Contributions."

(g) 'Contributions' means the money payments to the state unemployment compensation fund required by this act.

"Employing unit."

(h) 'Employing unit' means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one (1) or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

"Employer."

(i) 'Employer' means: (1) Any employing unit which for some portion of a day in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or the preceding calendar year, has or had in employment, one or more individuals (irrespective of whether the same individuals are or were employed in each such day); or whose total annual payroll within either the current or the preceding calendar year, exceeds the sum of five hundred dollars ($500.00);

(2) Any individual or employing unit which acquired the organization, trade or business, or substantially all

the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(3) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this act), and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit would be an employer under paragraph (1) of this section;

(4) Any employing unit which, having become an employer under paragraph (1), (2) or (3) has not, under section 87-110, ceased to be an employer subject to this act; or

(5) For the effective period of its election pursuant to section 87-110 (c) any other employing unit which has elected to become fully subject to this act.

"Employment."

(j) (1) 'Employment' subject to other provisions of this subsection means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied,

(2) The term 'employment' shall include an individual's entire service, performed within or both within and without this state if:

(A) The service is localized in this state; or

(B) The service is not localized in any state but some of the service is performed in this state and (I) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (II) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(3) Service not covered under paragraph (2) of this subsection, and performed entirely without this state and with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act

if the individual performing such services is a resident of this state and the commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

(4) Service shall be deemed to be localized within a state if—

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the commission that:

(A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

Excluded from "employment."

(6) The term 'employment' shall not include:

"Agricultural labor."

(A) Agricultural labor; The term 'agricultural labor' includes all services performed—

(1) On a farm, in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of maple syrup or maple sugar or any commodity commonly known as agricultural commodities, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

(4) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

"Farm" defined.

(5) As used in this section, the term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

Domestic service.

(B) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority;

Employment on a vessel.

(C) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

Employment by member of family.

(D) Service performed by an individual in the employ of his son, daughter, or spouse, and services performed by a child under the age of twenty-one (21) in the employ of his father or mother.

Employment by charitable organization.

(E) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or wild life and anglers clubs or associations, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Employment by state or political subdivision.

(F) Service performed in the employ of this state, or of any political subdivision thereof, or any instrumentality of this state or its political subdivisions.

Employment by other state or federal government.

(G) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of any instrumentality of any other state or states or their political subdivisions or of the United States, except that national banks organized under the national banking law shall not be entitled to exemption under this section and shall be subject to this act the same as state banks.

Employment coming under unemployment compensation system of federal government.

(H) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress; provided, that the commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner in section 87-121 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this act.

Employment in distribution of newspapers.

(I) Services performed in the delivery and distribution of newspapers or shopping news from house to house and business establishments by an individual under the age of eighteen years, but not including the delivery or distribution to any point or points for subsequent delivery or distribution.

(J) Services performed by real estate and insurance salesmen paid solely by commissions and without guarantee of minimum earnings.

Employment as real estate and insurance salesmen on commission basis.

(k) 'Employment office,' means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, or such other free public employment offices operated and maintained by the United States government or its instrumentalities, as the commission may approve.

"Employment office" defined.

(1) 'Fund,' means the unemployment compensation fund established by this act, to which all contributions required and from which all benefits provided under this act shall be paid.

"Fund."

(m) 'State,' includes, in addition to the states of the United States of America, Hawaii, the District of Columbia, Puerto Rico, the Virgin Islands, *Guam,* and the Dominion of Canada.''

"State."

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 7, 1959.

CHAPTER 179

An Act Relating to the Creation of a Board of Control to Operate, Manage, Supervise and Maintain the Operations of One or More Irrigation Districts; Providing for Membership, Terms of Office, Bond, and Compensation; Providing for, and Deposit of Funds, Records and Inspection; Providing for Withdrawal of Districts, Allowing for the Hiring of a Manager or Managers;

Purpose of This Act; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Power of commissioners of irrigation districts to operate jointly.

Section 1. Whenever the board of commissioners of one or more irrigation districts, established and organized by virtue of the provisions of Section 89-1201, Revised Codes of Montana, 1947, shall, in their discretion, deem it advisable for the best interests of their district to operate, manage, supervise and maintain the operation of their district jointly with another irrgation district, the said commissioners are hereby authorized and empowered to enter into written contracts for the creation of a joint board of control; provided further, that where irrigation works lie partly in the State of Montana and partly in an adjacent state, the board of commissioners may contract with the district or districts in the adjacent state for the creation of a joint board of control.

Power to contract with districts of adjacent states.

Board of control—members.

Section 2. The board of control shall be composed of one or more irrigation commissioners from each district involved who shall be appointed by the board of commissioners of the district which he or they represent, for a term of one year, and one member at large. The member at large shall be a land owner from one of the districts involved and shall be appointed by the said commissioner members to serve for a period of one (1) year and shall be required to give bond, the same as an irrigation district commissioner; provided further that the member at large shall not be an employee, agent, water commissioner, or servant of any of the districts involved; provided further that at no time shall the board membership be less than three (3) members. Each member of the board of control and the manager, if hired, before entering upon his duties shall give a bond to the board of control in the amount of five thousand dollars ($5,000.00) conditioned upon the faithful performance of his duties.

Bond of member.

Vacancies filled by appointment.

Vacancies occurring during the term in the position of commissioner member shall be filled for the remainder of the unexpired term by appointment of the board of commissioners of the district involved; vacancies occurring in the position of member at large shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

Board of control is operating agent.

Section 3. The board of control established under and by virtue of this act shall be the operating agent of the contracting districts for the operation and maintenance of irrigation and/or drainage works and the delivery of water therefrom.

Power to contract and employ.

The board shall make and execute all necessary contracts, employ and appoint such agents, officers and employees as may be required, and prescribe their duties.

Power to sue.

The board shall have the authority and power to institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this chapter, or to enforce, maintain, protect or preserve any and all rights, privileges, and immunities created by this act, or acquired in pursuance thereof, and in all courts, suits or proceedings, the said board may sue, appear and defend in person or by its attorneys, and in the name of such board of control.

Power to adopt rules.

The board may adopt rules and by-laws governing the calling and holding of meetings of the board, the manner of transacting business thereat, and the publishing or posting of the orders, resolutions and proceedings of the board. It shall be the duty of said board to pass or adopt by-laws, rules and regulations for the apportionment and distribution of water to the lands of the contracting districts, and for the protection and preservation of the works and other property of the said districts. All orders and resolutions shall be passed or adopted by a majority of the members of the board of control by a "yea" and "nay" vote, to be entered upon the records of the board.

General powers.

Said board shall have power generally to do and perform all such other acts as shall be necessary or appropriate to fully carry out the purposes of this act.

Salary up to $15.00 per day and expenses.

Section 4. The members of the board of control, when sitting as a board, shall receive not to exceed fifteen ($15.00) dollars, per day, for services, and in addition thereto, their necessary expenses in attending meetings or when otherwise engaged in board of control business.

Offices.

Section 5. The board of control is hereby authorized and empowered to establish an office in one of the contracting districts, to hold its proceedings therein and to keep on file all necessary petitions, papers, minutes, documents or other instruments belonging to the board of control and the contracting districts.

Manager.

Section 6. The board of control shall have the power to hire a manager to supervise and conduct the operations of the district or districts over which it presides, or to hire a manager for each district under its supervision, whichever it deems advisable in the premises. The said manager or managers shall perform all duties as set out for him or them by the board of control.

Duty to keep records.

Section 7. It shall be the duty of the board of control to keep, or cause to be kept, a full and complete book and record of the accounts, records, contracts, securities, minutes of meetings and other matters of every kind pertaining to or belonging to the joint operation of the irrigation districts, in the form prescribed by the state examiner.

Duty of state examiner.

It is hereby made the duty of the state examiner to prescribe such forms for the use of the board of control, and to examine the same as provided by law for the examination of the affairs of county offices.

Proportionate payment.

Section 8. The districts entering into a contract for their joint control shall pay proportionately, to the board of control the necessary costs, expenses and charges for the general administration, maintenance and repairs on an acreage basis.

County treasurer as custodian of funds.

Section 9. The county treasurer of the county wherein the office of the board is established shall be the custodian of all funds made available for the use of the board and he shall pay out such funds upon the order of the board. Such orders shall be signed by the secretary or treasurer of the board of control and countersigned by the president, or in his absence, by the vice-president of the board of control. The board funds shall be kept separate and distinct from all other county funds.

The county treasurer to whom board funds are entrusted shall be liable on his bond for the safe keeping of said funds.

Procedure for joint operation.

Section 10. At any time after the effective date of this act, in the event that it is deemed advisable or desirable for any irrigation districts to operate under the direction of a board of control as herein provided, the boards of commissioners of the districts, after petition requesting the same be received and filed with them, must call an election to put the question before the landowners of the districts which are petitioned to be joined. In the event a majority of the landowners of each district, as provided by section 89-1311 of this code, vote for organizing such board of control, then the commissioners of each district will be authorized and directed to enter into such contract to operate the districts in accordance with the terms of this act as provided by section 1 of this act. The election herein provided shall be conducted in the same manner and the same persons shall be entitled to vote thereat as provided for elections of commissioners of irrigation districts, in accordance with Sections 89-1302, 89-1303, 89-1305, 89-1306, 89-1307, 89-1308, 89-1309, 89-1310, 89-1311 and 89-1313 of these codes.

Validating present contracts.

Any contract previously entered into between any two or more irrigation districts, or between any such irrigation districts and the United States Bureau of Reclamation, which meets the requirements of this act, and which creates a board of control meeting all the requirements of this act is hereby declared to be a valid contract, and to create a valid board of control under this act.

Withdrawal from joint operation.

Section 11. Any district having entered into a written contract as provided by this act, may withdraw from such contract upon submitting to the board of control, in writing, a ninety-day (90) notice of withdrawal.

Act not to conflict with present statutes.

Section 12. This act is not intended to conflict in any way with present statutes governing irrigation districts, but is for the sole purpose of making it possible for one or more irrigation districts to function jointly through a central control agency for the purpose of efficiency, simplicity and economy.

Effective immediately.

Section 13. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1959.

CHAPTER 180

An Act to Amend Section 5-910, Revised Codes of Montana, 1947, Relating to Special Examination Fees to be Paid to the State Examiner for Such Special Examinations; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 5-910, Revised Codes of Montana, 1947, be, and the same is amended to read as follows:

Authorizing special examinations of institutions handling public monies.

"5-910. **Special examinations and fees.** Special examinations may be made of any county, city, town, school district, irrigation district, high school, bank, building and loan association, credit union or any other office, board or commission, whether temporary or permanent, however created, and for whatever purpose, having the control, management, collection or disbursement of any public money of any character or description, when in the judgment of the state examiner it shall be deemed necessary, and such special examinations shall be charged for at the rate of *sixty dollars ($60.00)* a day for each person engaged in the examination. All special examination fees or charges so collected by the state examiner and ex officio superintendent of banks and paid to the state treasurer, shall be placed in a special fund to be known as the special examination fund to be drawn upon by the state examiner and ex officio superintendent of banks to defray the actual costs and expenses of such special examinations, but all moneys remaining in such special fund at the end of each current year shall be transferred by the state treasurer to the general fund.

Fee for state examiner.

Special examination fund—disbursement.

Fees—when due.

"In any case where the current examination shall not have been made prior to the first day of July of any year, the above fees must be paid as herein specified, provided, however, that all examinations shall cover the entire period from the date of the last examination."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 181

An Act to Amend Section 84-5408 of the Revised Codes of Montana of 1947 Relating to the Transmission of Net Proceeds to County Assessor; and Providing That Valuation of Mines for the Purpose of Taxation Shall Be an Amount Equal to the Average Net Proceeds From Such Mine for the Five Calendar Years Next Preceding or for as Many Years Preceding as the Mine Has Had Gross Yield, Whichever is Less; Providing for Computation of Average Net Proceeds; Providing for Determination of Net Proceeds for Averaging to Determine Valuation; Providing for No Valuation for a Year When There Has Been No Gross Yield; Repealing All Acts and Parts of Acts in Conflict Herewith and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-5408 of the Revised Codes of Montana, 1947, be, and the same hereby is amended to read as follows:

Transmission of valuation of net proceeds of mines to county assessor for tax purposes.

"84-5408. **Transmission of net proceeds to county assessor.** On or before the first day of July in each year the state board of equalization shall transmit to the county assessor of each county in which such mines and mining claims are situated, the valuation of the net proceeds of such mines and mining claims for the purpose of taxation, as the same have been determined and fixed by such state board of equalization. *The said valuation for the purpose of taxation shall be an amount equal to the average net proceeds from such mine for the five calendar years next preceding, or for as many years next preceding as the mine has produced gross yield, or for as many years next preceding as this act has been in effect, whichever is less. The average net proceeds for valuation shall be computed by dividing the total net proceeds for such period by the number of years for which such net proceeds were taken into account. In determining net proceeds of each individual year for averaging to determine valuation for purposes of taxation, the actual annual net proceeds as defined in section 84-5403 of the Revised Codes of Montana, 1947, including losses, if any, from such mines and*

Computation of valuation.

Computation of average net proceeds.

mining claims shall be taken for each year rather than the average valuation for such year. In no event shall there be valuation for the purpose of taxation for a year when there has been no gross yield from such mines and mining claims for the preceding average years and such years shall not be taken into account in computing the net proceeds for any year. The county assessor shall immediately enter the same upon an assessment roll called 'assessment roll of net proceeds of mines,' alphabetically arranged, and in which shall be specified in separate columns and under the following heads:

Duty to enter on assessment roll of net proceeds of mines.

1. The name and address of the owner or lessee of the mine.

2. The description and location of the mine.

3. The number of tons of ore or other mineral products or deposits extracted and treated or sold from the mine during the period covered by the statement.

4. The gross value of the ores, mineral products or deposits, in dollars and cents, extracted and treated, or sold during the year, to be determined as provided in the preceding section.

5. The net proceeds, in dollars and cents, of such mine or mining claims during the years, to be determined as provided in the preceding section.

"The form of said assessment roll shall be prescribed by the state board of equalization in conformity with the provisions of this act."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be effective from and after its passage and approval.

Approved March 7, 1959.

CHAPTER 182

An Act to Amend Section 82-1231, Revised Codes of Montana, 1947, Relating to Fire Marshal Tax Levy, Repealing All Acts and Parts of Acts in Conflict Herewith, and Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 82-1231, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"82-1231. (2761) **Tax on fire insurance premiums for maintenance of state fire marshal's office.** Each *insurer* authorized to effect insurance on risks enumerated in *subsection two* of section *11-1919,* doing business in this state shall pay to the state auditor and commissioner of insurance ex-officio, during the month of February or March in each year, in addition to the *taxes on premiums* required by law to be paid by it, a tax of one-fourth of one per cent (¼ of 1%) on the fire portion of the direct premiums on such risks received during the calendar year next preceding, after deducting cancellations and return premiums."

Tax on fire insurance premiums for maintenance of state fire marshal's office.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after January 1, 1960.

Effective January 1, 1960.

Approved March 7, 1959.

CHAPTER 183

An Act to Amend Section 11-1919, Revised Codes of Montana, 1947, Relating to the Manner in Which the State Auditor of the State of Montana Shall Pay to the Fire Department Relief Association, Legally Organized and Existing in the Several Cities and Towns in the State of Montana, Their Respective Share of the Premium Taxes Collected From Insurers Authorized to Do Business in the State of Montana; Repealing All Acts and Parts of Acts in Conflict Herewith, and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11-1919, Revised Codes of

Amending clause.

Montana, 1947, be, and the same is hereby amended to read as follows:

Duty of state auditor to distribute funds for fire department relief associations.

"11-1919. **State auditor to pay fire department relief association** *premium tax* **collected from** *certain insurers. 1.* At the end of the fiscal year, the state auditor shall issue and deliver to the treasurer of every city or town, for the use and benefit of the fire department relief association legally existing in every such city or town entitled by law to receive the same, his warrant for an amount equal to the *taxes upon premiums* collected by the state auditor, ex officio insurance commissioner, from *insurers* authorized to effect insurance on risks enumerated in *subsection 2 of this section,* as said cities or town are each severally entitled to, computed as follows:

Apportionment.

(a). Each and every fire department relief association legally organized and existing in any city or town and entitled by law to receive the same shall receive, as its portion of the total *taxes on premiums* collected from *insurers* authorized to effect insurance on risks enumerated in *subsection 2 of this section* all of the *taxes on premiums* assessed and collected on all premiums collected by *insurers* authorized to effect insurance on risks enumerated in *subsection 2 of this section* in the said city or town.

Additional amount to make total of $100.00.

(b). The legally organized and existing fire department relief associations in all cities or towns where the *taxes on premiums* collected and distributed pursuant to *subdivision (a) above* is insufficient to make an amount equal to $100.00 shall receive such additional amount from the total *taxes on premiums* collected from *insurers* authorized to effect insurance against risks enumerated in *subsection 2 of this section* as may be necessary to make the total amount received by said fire department relief association equal to the sum of $100.00.

Risks subject to tax.

2. The risks referred to in subsection 1 above, are enumerated as follows: Insurance of houses, buildings, and all other kinds of property against loss or damage by fire or other casualty, and all kinds of insurance on goods, merchandise, or other property in the course of transportation, whether on land or water or air; insurance against loss or damage to motor vehicles resulting from accident, collision, or marine and inland navigation and transportation perils; insurance of growing crops against loss or *damage resulting from hail or the elements; insurance against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers, pumps or other apparatus; and insurance against loss or legal liability for loss because of damage to property caused by the use of teams or vehicles whether by accident or collision or by explosion of any engine or tank or boiler or pipe or tire of any vehicle, and also including insurance against theft of the whole or any part of any vehicle.*"

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective January 1, 1960.

Section 3. This act shall be in full force and effect from and after January 1, 1960.

Approved March 7, 1959.

CHAPTER 184

An Act to Amend Section 11-1918, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 22, Laws of Montana, 1955, Relating to Reports of Insurers Authorized to do Business in the State of Montana; Providing for Reporting of the Fire Portion of the Direct Premiums, After Deducting Cancellations and Return Premiums, in Cities and Towns Having Organized Fire Departments and Fire Department Relief Associations, Repealing All Acts and Parts of Acts in Conflict Herewith, and Providing for an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-1918, Revised Codes of Montana, 1947, as amended by section 1, Chapter 22, Laws of Montana, 1955, be and the same is hereby amended to read as follows:

Duty of insurers to report fire premiums.

"11-1918. (5126) **Reports of** *insurers.* The commissioner of insurance shall furnish to each *insurer* authorized to effect insurance against risks enumerated in *subsection 2* of section *11-1919* for its annual statement, a list of all such incorporated cities or towns, and each *insurer* shall report therein the amount of the fire portion of the direct premiums, after deducting cancellations and return premiums, received by it during the preceding year in each incorporated city or town. Before July 1 following the said October 31, mentioned in preceding sections, the commissioner of insurance shall certify to the state auditor the name of each city or town which has an organized fire department and fire department relief association which has complied with provisions of section 11-1910, which has been so reported to him and the amount of the fire portion of the direct premiums after deducting cancellations and return premiums, received in each such city or town in such year by each *insurer* authorized to effect insurance on risks enumerated in *subsection 2* of section *11-1919*."

Duty of commissioner to certify to state auditor.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective January 1, 1960.

Section 3. This act shall be in full force and effect from and after January 1, 1960.

Approved March 7, 1959.

CHAPTER 185

An Act to Provide for Devises or Bequests to a Trust by Will When the Trust is Amendable or Revocable, or Both, or Because the Trust Was Amended After the Date of Execution of the Will; to Provide That the Property So Devised or Bequeathed Shall Not be Deemed to be Held Under a Testamentary Trust, Unless the Will Provides Otherwise; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Allowing devise or bequest by will to trustees when trust is amendable or revocable or amended after execution of will.

Section 1. A devise or bequest may be made by a will to a trustee or trustees of a trust created by the testator or some other person, including a funded or unfunded life insurance trust, although the grantor or settlor has reserved any or all rights of ownership of the insurance contracts, when the trust is established by written instrument executed before or concurrently with the execution of such will. Such devise or bequest shall not be invalid because the trust is amendable or revocable, or both, or because the trust was amended after the date of execution of the will. Unless the will provides otherwise, the property so devised or bequeathed shall not be deemed to be held under a testamentary trust of the testator but shall become a part of the trust to which it is given to be administered and disposed of in accordance with the provisions of the instrument establishing such trust, including any amendments thereto, made prior to the death of the testator, regardless of whether made before or after the execution of the will. An entire revocation of the trust prior to the testator's death shall invalidate the devise or bequest.

Property deemed part of trust established by instrument whether made before or after execution of will.

Entire revocation of trust invalidates devise or bequest.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 7, 1959.

CHAPTER 186

An Act to Amend Section 5-904, Revised Codes of Montana, 1947, Relating to Payments by Counties Into State Examiner's Fund, Providing Schedule of Fees to be Paid for Examinations; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 5-904, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"5-904. **Payments by counties.** For the credit of the state general fund each county of the state, shall pay to the state treasurer on or before the first day of July of each year, according to its taxable valuation for the preceding year as follows:

Schedule of payments by counties to state general fund by July 1 of each year.

"Counties having a taxable valuation of five million dollars ($5,000,000) or less, shall pay one hundred dollars ($100.00) for each one million dollars ($1,000,000) of taxable valuation, or fraction thereof;

"Counties having a taxable valuation of more than five million dollars ($5,000,000), but less than twenty million dollars ($20,000,000), shall pay five hundred dollars ($500.00), plus seventy-five dollars ($75.00) for each one million dollars ($1,000,000) of taxable valuation in excess of five million dollars ($5,000,000) or fraction thereof;

"Counties having a taxable valuation of more than twenty million dollars ($20,000,000), but less than forty million dollars ($40,000,000), shall pay sixteen hundred twenty-five dollars ($1625.00) plus fifty dollars ($50.00) for each one million dollars ($1,000,000) of taxable valuation in excess of twenty million dollars ($20,000,000) or fraction thereof;

"Counties having a taxable valuation in excess of forty million dollars ($40,000,000) shall pay twenty-six hundred twenty-five dollars ($2625.00) plus twenty-five dollars ($25.00) for each one million dollars ($1,000,000) of taxable valuation in excess of forty million dollars ($40,000,000) or fraction thereof;

Minimum payment $350.00.

"The minimum payment hereunder for any one county shall be three hundred fifty dollars ($350.00).

"The fees as prescribed shall be paid to the state treasurer regardless of whether or not the state examiner has made an examination of a county within the calendar year in which the fee is payable."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 187

An Act to Amend Section 75-2516, 75-2518 and 75-2520, Revised Codes of Montana, 1947, Relating to Classes of Certificates for Teaching and Providing for New Classes of Teachers' Certificates and Stating the Qualifications Therefor, and Providing for the Renewal of Outstanding Certificates and Providing for an Emergency Authorization to Teach; and Repealing Section

75-2517, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-2516, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Classes of teaching certificates.

"75-2516. **Classes of certificates for teaching.** The state superintendent of public instruction may issue the following classes of certificates for teaching in accordance with the rules and regulations approved and adopted by the state board of education:

Professional certificate.

Class 1. Professional certificate. The professional certificate may be issued to applicants who have completed a teacher education program which includes a bachelor's degree and a minimum of one year of study beyond the degree, such degree and additional study to have been taken at a unit of the university or Montana or equivalent institution as provided by section 75-2515. The professional certificate may be endorsed for elementary and/or secondary instruction, and for specified subject fields according to the academic and professional courses offered by the applicant and in accordance with the rules and regulations established by the state board of education for such endorsement.

Standard certificate.

Class 2. Standard certificate. The standard certificate may be issued to applicants who have completed a four-year teacher education program and who have been awarded a bachelor's degree by a unit of the university of Montana or equivalent institution as provided by section 75-2515. The standard certificate may be endorsed for elementary and/or secondary instruction, and for specified subject fields according to the academic and professional courses offered by the applicant and in accordance with the rules and regulations established by the state board of education for such endorsement.

Administrative and supervisor's certificates.

Class 3. Administrative and supervisory certificates. A person shall be qualified to be a superintendent of schools in any school district when he shall hold a certificate qualifying him to teach in the school or schools thereof, and in addition shall have such other qualifications with reference *to special preparation and experience as the state board of education may from time to time prescribe.*

Other qualifications.

A person shall be qualified to be a principal or supervisor of or in any school when he shall hold a certificate qualifying him to teach in such school, and in addition shall have such other qualifications with reference to special training and experience as the state board of education may from time to time prescribe.

When any person shall establish his qualifications to be a superintendent, principal or supervisor, as aforesaid in compliance with the rules and regulations prescribed by the state board of education, the state superintendent of public instruction may certify him as being qualified to be such superintendent, principal or supervisor, as the case may be. Contracts with principals, supervisors or superintendents shall not be valid unless such persons shall be qualified by holding the appropriate and required certificate.

Vocational, recreational, and adult education certificates.

Class 4. Vocational, recreational, and adult education certificates. The state superintendent of public instruction shall have authority to issue special certificates to vocational, recreational, and adult education teachers who present such qualifications of training and experience as meet the requirements of the United States office of education or the special needs of the several vocational, recreational and adult education fields, and comply with the rules and regulations approved and adopted by the state board of education.

Provisional certificate.

Class 5. Provisional certificate. The provisional certificate may be issued to applicants who provide evidence satisfactory to the state board of education of intent to qualify themselves in the future for the Class 1 Professional Certificate or the Class 2 Standard Certificate, and who have completed the following minimum of academic and/or professional training at a unit of the university of Montana or equivalent institution as provided by section 75-2515:

Elementary endorsement.

a. For elementary endorsement. Applicants shall have completed a minimum of two years in a teacher education program.

Secondary endorsement.

b. For secondary endorsement. Applicants shall have *completed a four-year college program or its equivalent and shall hold a bachelor's degree. The provisional certificate endorsed for secondary instruction may also be endorsed for specified subject fields according to the academic and/or professional courses offered by the applicant.*

Certificates shall be endorsed in accordance with the rules and regulations established by the state board of education for such endorsement.

Academic year defined.

For purposes of evaluating the qualifications of applicants for teaching certificates, a year means that instructional period consisting of three quarters or two semesters or other terms which are recognized as an academic year by any unit of the university of Montana or equivalent institution."

Repealing clause.

Section 2. That section 75-2517, Revised Codes of Montana, 1947, be, and the same is hereby repealed.

Amending clause.

Section 3. That section 75-2518, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Certificates outstanding on July 1, 1959.

"75-2518. **Outstanding certificates for teaching.** No provisions of this act shall affect or impair the validity of any certificate for teaching in force on *July 1, 1959,* or the rights and privileges of the holders by virtue thereof, save that any certificate may be suspended or revoked for any of the causes and by the procedures specified by law.

Renewal of certificate outstanding on July 1, 1959.

Any holder of an elementary school standard certificate issued prior to July 1, 1959, under previous statute and in force on July 1, 1959, shall be eligible for renewal of such certificate in accordance with the rules and regulations of the state board of education until the holder qualifies for the Class 2 Standard Certificate as provided in section 75-2516, as amended."

Amending clause.

Section 4. That section 75-2520, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duration and renewal of certificates.

"75-2520. **Duration and renewal of certificates.** All certificates shall bear the date of the issue and, with the exception of *the emergency authorization to teach which*

Exception—emergency authorization and provisional certificate.

shall be valid for one year, and the provisional certificate which shall be valid for two years, shall expire after the first issue to any person five years from July 1 preceding such date of issue and may be renewed for periods of not more than five (5) years in accordance with rules and regulations adopted by the state board of education."

Emergency authorization to teach.

Section 5. *Emergency authorization to teach. When regularly certified teachers cannot be secured, the state superintendent of public instruction may, in accordance with the rules and regulations approved and adopted by the state board of education for such emergencies, issue an emergency authorization to teach to any person who has previously held a valid certificate or who meets the standards of preparation prescribed by the state board of education for and during such emergencies. Such emergency authorization to teach shall indicate the grades or the subjects or fields in which the holder is authorized to teach. Emergency authorizations to teach shall be valid for one year and may be renewed only in accordance with the rules and regulations approved and adopted by the state board of education.*

Repealing clause.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1959.

CHAPTER 188

An Act to Provide Conventional and Roof Bolting Standards for Coal Mining Operations; Prescribing Procedure for Adoption and Use of Roof Support Standards; Specifying Minimum Standards of Roof Control and Providing Safety Provisions; Amending Section 50-501, Revised Codes of Montana, 1947, Pertaining to Mine Foremen and Their Duties by Striking the Words "Timbering" and "Timbers" and Requiring Compliance with the Roof Standards of This Act; Providing a penalty for the Violation of This Act; Repealing Section 50-466, Revised Codes of Montana, 1947, as Amended by Chapter 185, Laws of 1949, and Section 50-510, Revised Codes of Montana, 1947, and All Other Acts in Conflict Herewith; Providing a Severability Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Control of roof, face, and ribs in coal mines.**

Control of roof, face and ribs in coal mines.

Duty of management to adopt standards.

1. The management of each mine shall adopt and comply with adequate minimum systematic standards for roof support suitable to the roof conditions of the mine or sections thereof. Such standards may require the use of conventional supports (timbers, jacks, cross bars, etc.), or may, as hereinafter provided, require the use of roof bolts in conjunction with conventional supports. Such standards shall be described in writing and illustrated by drawings, copies of which shall be posted at one or more conspicuous places at the mine. Such standards shall require that additional roof support be added wherever necessary to afford adequate protection.

Approval by state coal mine inspector.

Conventional roof supports.

2. Minimum systematic standards for roof supports in mines or sections thereof where conventional supports are to be used as the sole means of support shall be approved, in writing, by the state coal mine inspector before they are made effective.

Approval of use of roof bolts, when.

3. A. Minimum systematic standards for roof supports for mines or sections thereof where roof bolts are to be used in conjunction with conventional supports shall be approved, in writing, by the state coal mine inspector before they are made effective. Provided further, that the state inspector shall not approve any such proposed standards unless and until they are in compliance with the recommendations of an authorized representative of the United States Bureau of Mines. Roof bolts shall not be used as the sole means of support in any mine or section thereof.

Experimental installations.

B. Before roof bolting is adopted in conjunction with conventional timbering as a means of support, the effectiveness of roof bolts shall be proved by experimental installations in rooms or back entries where there is likely to be little travel. Such installations shall be made in accordance with the recommendations of an authorized representative of the United States Bureau of Mines, and their effectiveness shall be observed for a period of not less than two months. The minimum systematic support standards shall be determined on the basis of such observations.

Specifications for roof bolts.

C. Minimum systematic support standards for mines or sections thereof where roof bolts are used in conjunction with conventional roof supports shall show:

(I) Type of bolts to be used.

(II) Dimensions of bolts.

(III) Spacing of bolts.

(IV) Maximum width of places where bolts are to be installed.

(V) Maximum distance from face bolts are to be installed.

(VI) Type and size of bearing plates.

(VII) Safety precautions to be taken.

(VIII) Timbers to be set in connection with bolting.

(IX) Area of mine involved.

Change in standards allowed when.

D. No change shall be made in any support standards concerning roof bolts until and unless a written permit granting such change has been issued by the state coal mine inspector, and further that such change is in compliance with the recommendations of an authorized representative of the United States Bureau of Mines.

Roof-bolt testing.

E. Roof-bolt testing shall be done by qualified persons designated by the mine foreman.

Violation voids permit.

F. Any violation by mine management of the provisions of subsections 3A, 3B, 3C, 3D, and 3E shall automatically void the permit for using roof bolts in conjunction with conventional timbers.

Duty of management to supply materials.

4. The management shall provide at or near the face workings an ample supply of suitable materials of proper size with which to secure all working places in a safe manner.

Safety devices close to face.

5. Safety parts, jacks, or cross bars shall be set close to the face when necessary, before other mining operations are begun, and as needed thereafter.

6. All underground working places, active roadways and travelways shall be adequately supported to protect employees from falls of roof, face or ribs. Loose roof and overhanging or loose faces and ribs shall be taken down or adequately supported. Support of underground areas.

7. Roof shall be adequately supported to protect employees where roof material is being taken down, cross bars are being installed, roof-bolt holes are being drilled, and when roof bolts are being installed. Roof supports.

8. Supports knocked out accidentally shall be replaced promptly. Replacements.

9. Permanent supports in active workings shall not be removed unless and until equivalent protection is provided. Protection on removal.

10. Where roof supports are required at the working faces, persons shall not advance beyond artificially supported roof, except those who are assigned to install supports or inspect the place. Persons not to advance beyond supported roof.

11. The management shall instruct, or have instructed all underground employees in the proper testing of roof, face, and ribs. Duty of management to instruct underground employees.

12. To detect dangerous conditions, during the work on any shift, the mine foreman in charge or his designated assistants shall examine or cause to be examined by a competent person, roof, face, and ribs or working places, and passageways where men travel. Where found, such dangerous conditions shall be corrected promptly by removing loose roof or rib, by adding adequate roof support, or by duplicating defective supports where necessary. Examination for dangerous conditions.

13. Wherever conventional timbers are used, they shall be set to conform to the clearance provisions hereinafter provided. Setting of conventional timbers.

14. Where there is danger of face coal rolling on a person during or after undercutting or center cutting, it shall be spragged by placing blocks in the cut or by blocking with leaning posts. Spragging and blocking of face coal.

15. A bar of proper length shall be used to bar down loose material. Bar for loose materials.

Persons removing timbers not to be alone.

16. In worked-out places where timbers are being removed, persons engaged in drawing timber shall not be permitted to work alone.

Examination of work place by employee.

17. A. Each employee shall examine his working place upon entering the same and shall not commence to mine or load until it is made safe. He shall be very careful to keep his working place in a safe condition at all times.

Securing draw slate.

B. When draw slate is over the coal, the miner shall not go underneath the draw slate until it is made safe from falling by securely posting it, and he shall not remove the posts until the coal is removed and he is ready to take down the draw slate. He shall not place in the gob or refuse pile any fine coal or coal dust but shall load same into cars.

Coal dust removal.

Duty of employee to notify superior of dangerous conditions.

C. Should he at any time find his place becoming dangerous from any cause or condition, to such an extent that he is unable to take care of the same personally, he shall at once cease work and notify the mine foreman or his assistant of such danger, and upon leaving such place he shall place some plain warning at the entrance thereof to warn others from entering into the said danger, and he shall not return to his place until ordered to do so by the mine foreman or his assistant. Each miner shall obey any order or orders given by the superintendent or mine foreman relating to the width of his working place or safety of the same. Such miner or other person shall not be held to have violated the provisions of this section, if the owner, lessee, agent, superintendent, or mine foreman fail to supply the necessary props, caps, timber, or necessary material as provided in this act.

Duty to conserve materials.

D. Each miner or other person shall avoid waste of props, caps, timber, or other material. When he has props, caps, timber, or other material unsuited for his purpose, he shall not cover them up or destroy them, but shall place same near the track where they can be readily seen.

Amending clause.

Section 2. That section 50-501, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"50-501. **Mine foreman and his duties.** In order to secure efficiency in the coal mines, the operator or superintendent shall employ a competent and practical foreman; said mine foreman shall have passed an examination and obtained a certificate of competency as required by this act, and said mine foreman shall devote the whole of his time to his duties at the mine when in operation.

Mine foreman—certificate.

"Provisions of these sections requiring a state certified foreman may be waived by the state coal mine inspector in mines where five men or less are employed on any one shift; provided, however, that the state inspector considers the person in charge of the underground work has adequate ability to supervise the safety of the workers and to carry out the duties imposed by law in the mine concerned.

Waiver of certificate.

"The mine foreman or his assistant shall visit and examine every working place in the mine at least once each day, or more often if necessary, while the miners of such places are or should be at work, and shall examine and see that each working place is secured by *the standards of section 1 of this act* so that the safety of the mine is assured; he shall see that a sufficient supply of *roof support* material is always on hand at the working places in compliance with this act.

Duty of mine foreman to inspect.

"When the mine foreman is personally unable to carry out the requirements of this act as pertaining to his duties, on account of sickness or of other unavoidable conditions, a competent person shall be appointed to act in his place. The said person so appointed shall possess a mine foreman's certificate of competency.

Replacement.

"Whenever such mine foreman, his assistant or assistants, shall have an unsafe place reported to him or them, he or they shall order and direct that the same be placed in a safe condition, and until such is done no person or persons shall enter such unsafe place except for the purpose of making it safe."

Duty to make work place safe.

Section 3. Any violation of this act shall be punishable under section 50-529, Revised Codes of Montana, 1947.

Penalty.

Section 4. That section 50-466, Revised Codes of Montana, 1947, as amended by chapter 185, laws of 1949 and

Repealing clause.

section 50-510, Revised Codes of Montana, 1947, and all other acts in conflict herewith be repealed.

Saving clause.

Section 5. If any section, subsection, sentence, clause or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portion of this act.

Approved March 7, 1959.

CHAPTER 189

An Act Providing for the Admission of Patients to the Montana Tuberculosis Sanitarium by Providing That Any Person May be Admitted Who is Suffering from Tuberculosis or Miner's Consumption; Providing for Applications and Order of Admission; Repealing Section 80-210, Revised Codes of Montana, 1947, as Amended by Chapter 142, Laws of 1953 and All Acts and Parts of Acts in Conflict Therewith; and Providing an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Procedure for admission of patients to Montana tuberculosis sanitarium.

Section 1. **Admission of patients to sanitarium.** The executive board of the sanitarium is hereby given the power and authority to receive any person as a patient who is suffering from tuberculosis or what is commonly called miner's consumption. An applicant for admission to the sanitarium need not be a citizen or resident of the State of Montana for any length of time before he can be admitted as a patient. No person shall be admitted as a patient without certification by an examining licensed physician and surgeon that the applicant is suffering from tuberculosis or miner's consumption, such certification being in form and containing such information as determined necessary by the superintendent of the sanitarium. Applications with their certification shall be submitted to the health officer of the county where application is made or directly to the superintendent. Upon acceptance of a patient for admission to the sanitarium, the superintendent shall notify the referring physician and the state board of health. The medical staff of the sanitarium shall be the sole judge of who is afflicted with tuberculosis that may benefit by admission to the sanitarium.

Order of admission.

Admission to the sanitarium shall be made in the order in which the name of the applicant shall appear upon an application book to be kept by the superintendent. An applicant's name may only be entered if his application is accompanied by the certificate of an examining physician. Residents of Montana shall be entitled to admission to the sanitarium before applicants who are not residents. Provided, however, that where the next patient in order is a man and the only accommodations available in the sanitarium are for women or children, then women and children shall be admitted in their proper order and vice versa.

Repealing clause.

Section 2. That section 80-210, Revised Codes of Montana, 1947, as amended by chapter 142, laws of 1953, and all acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1959.

CHAPTER 190

An Act to Provide for the Repeal of Sections 80-401, 80-402, 80-403 and 80-404 of the Revised Codes of Montana, 1947, Relating to the Creation, Composition, Powers, Expenses, Meetings and Appropriations of Farmers' Institutes.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That sections 80-401, 80-402, 80-403 and 80-404 of the Revised Codes of Montana, 1947, be, and the same are hereby repealed.

Approved March 7, 1959.

CHAPTER 191

An Act to Provide for the Submission to the Qualified Electors of the State of Montana an Amendment to Section 11, Article XI of the Constitution of the State of Montana Relating to the General Control and Supervision of the State University and the Various Other State Educational Institutions, to Provide for the Establishment of a State Board of Education Consisting of Eight (8) Members to be Appointed by the Governor, Subject to Confirmation by the Senate, Under the Regulations and Restrictions to be Provided by Law, to Provide That the General Control and Supervision of the Public, Free, Common Schools Shall be Vested in the State Board of Education; to Provide That the General Control and Supervision of the University of Montana Shall be Vested in a Board of Regents, Whose Powers and Duties Shall be Prescribed by Law, to Provide That the Board of Regents Shall Consist of Eight (8) Members, Appointed by the Governor, Subject to Confirmation by the Senate, Under the Regulations to be Provided by Law; to Provide for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11 of article XI of the Constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana, at the general election to be held in November of 1960.

Section 2. That section 11 of article XI of the Constitution of the State of Montana be, and the same is hereby amended to read as follows:

"Section 11. The general control and supervision of the *public, free, common schools* shall be vested in a state board of education, whose powers and duties shall be prescribed and regulated by law. The said board shall consist of *eight (8)* members, appointed by the governor; subject to the confirmation of the Senate, under the regulations and restrictions to be provided by law. *The general control and supervision of the University of Montana* *shall be vested in a board of regents, whose powers and duties shall be prescribed by law. The said board shall consist of eight (8) members, appointed by the governor. subject to confirmation of the Senate, under the regulations and restrictions to be provided by law.''*

Section 3. This amendment shall be submitted to the qualified electors of the State of Montana by being placed upon an official ballot provided by chapter 11 of title 23 of the Revised Codes of Montana, 1947, as amended by chapter 79 of the Session Laws of Montana of 1949, and as amended by chapter 72 of the Session Laws of 1953, and as provided by law; and there shall be printed on such ballots the title of this act and the following words:

☐ For the above amendment

☐ Against the above amendment.

Section 4. The votes cast for and against the amendment herein proposed shall be counted, canvassed, and determined by such officials and in such manner as provided by law, and if a majority of all votes cast at such election for and against such amendment shall be in favor of such amendment, the governor of the state shall so declare by public proclamation, and said amendment shall be in full force and effect as a part of the Constitution of the State of Montana from and after the date of July 1, 1961.

(See attached opinion).

NOTE: Official opinion of Attorney General, dated February 27, 1959, states that approval of Governor is unnecessary on proposed amendment to constitution.

CHAPTER 192

An Act to Amend Section 27-403 of the Revised Codes of Montana of 1947, Relating to Definitions of Words and Terms Used in the Montana Milk Control Law, by Specifying Two Classes of Milk for the Purposes of the Act and the Particular Products to be Included in Each Class; Section 27-404 of the Revised Codes of Montana of 1947, as Amended by Chapter 249 of the Laws of

1957, Relating to Membership on the Milk Control Board, Compensation of Members, and the Calling of Meetings; by Providing for a Five (5) Member Board to be Appointed by the Governor, Five (5) Year Terms of Office, Per Diem for Expenses, and Call of Meetings by the Chairman or a Majority of the Board; Section 27-405 of the Revised Codes of Montana of 1947, Relating to the General Powers of the Milk Control Board, by Providing the Milk Control Board Shall Have Power to Take Depositions at its Offices, Agents of the Board May Call and Give Notice of Price Hearings When the Board is Not in Session, and the Method Whereby Subpoenas Issued by the Board May be Enforced by District Courts; Section 27-406 of the Revised Codes of Montana of 1947, Relating to Establishment of Natural Marketing Areas, by Providing the Entire State Shall be Embraced in Not Less Than Five (5) Natural Marketing Areas, by Providing Methods for Establishment of Such Areas and Adjustment or Alteration of Their Boundaries Under Certain Circumstances; Section 27-407 of the Revised Codes of Montana of 1947, Relating to Orders Fixing Prices, by Specifying the Types and Contents of Notices of Hearings to be Given by the Board and What Shall be Contained in Price Orders; Section 27-409 of the Revised Codes of Montana of 1947, Relating to License Fees, by Providing for an Annual License Fee of Two Dollars ($2.00) and, in addition Thereto, an Annual Assessment Upon Producers, Producer-Distributors, and Distributors, to be Made by the Milk Control Board for the Purpose of Enforcing and Administering This Act; Section 27-410 of the Revised Codes of Montana of 1947, Relating to Application for Licenses, by Removing Therefrom the Provision That the License Year Shall Begin on January First of Each Year and the Provision Relating to Reduced License Fees Under Certain Circumstances; Section 27-414 of the Revised Codes of Montana of 1947, Relating to Rules of Fair Trade Practices, by Providing the Milk Control Board Shall Formulate Rules and Regulations Concerning Certain Practices Which Are Hereby Declared Unfair, Unlawful and Not in the Public Interest; Section 27-416 of the Revised Codes of Montana of 1947, Relating to Reports of Milk Dealers, by Requiring the Milk Control Board to Adopt a Uniform System of Accounting to be Used by Distributors to Account for the Usage of All Milk Received by Them and by Providing Specific Records Which Must be Kept by Distributors; Adding New Sections to the Milk Control Law to Provide for Bonding of Distributors, Appointment and Function of Local Advisory Boards When Public Hearings Are Scheduled for the Purpose of Fixing Prices, Judicial Review of Orders or Decisions of the Milk Control Board, and the Method of Serving Process Upon the Milk Control Board; Repealing Sections 27-412 and 27-419 of the Revised Codes of Montana of 1947; Providing That the Unconstitutionality of a Part of This Act Shall Not Affect or Impair the Remainder; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing This Act Shall be in Full Force and Effect from After its Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 27-403 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows: **Amending clause.**

''27-403. **Definitions.** As used in this act, unless the context otherwise requires, 'board' means the state agency created by this act, to be known as the Montana milk control board. **Definitions.** **"Board."**

'Person' means any person, firm, corporation or association. **"Person."**

'Producer' means any person who produces milk for fluid consumption within the state, selling same at wholesale to a distributor. **"Producer."**

'Distributor' means any person purchasing milk and distributing same for fluid consumption within the state. Said term, however, excludes all persons purchasing milk from a dealer licensed under this act, for resale over the counter at retail, or for consumption on the premises. **"Distributor."**

'Producer-distributor' means any person both producing and distributing milk for fluid consumption within the state. **"Producer-distributor."**

"Dealer." 'Dealer' means any producer, distributor, or producer-distributor.

"Licensee." 'Licensee' means any person who holds a license from the board.

"Association." 'Association' means any organized group of dealers in a community or marketing area which has been constituted under regulations satisfactory to the board.

"Market." 'Market' means any *area* of the state designated by the board as a natural marketing area.

"Consumer." 'Consumer' means any person or any agency, other than a dealer, who purchases milk for consumption or use.

"Milk." 'Milk' means fluid milk and cream sold for consumption as such, *and for the purposes of this act shall be classified as follows:*

Class I milk. *Class I milk shall include all bottled or packaged milk, raw, pasteurized and homogenized, low fat, buttermilk and chocolate milk.*

Class II milk. *Class II milk shall include whipping cream, coffee cream, half-and-half, and skim milk.*

Power to classify. *"The board shall have power and authority to assign fluid milk products hereafter developed to the class which in its discretion it determines to be proper."*

Amending clause. Section 2. That section 27-404 of the Revised Codes of Montana of 1947, as amended by chapter 249 of the Laws of 1957, be, and the same is hereby amended to read as follows:

Milk control board—five members appointed by governor—qualifications. "27-404. **Milk control board.** There is hereby constituted a milk control board to consist of *five (5)* members, who shall be appointed by the governor, *with the consent of the senate, for terms of office as herein provided, and* with the following qualifications: *No appointee shall be connected in any way with the production, processing, distribution, or wholesale or retail sale of milk or dairy products in any manner whatsoever; no appointee shall have held elective or appointive public office during the period of two years immediately preceding his appointment and no appointee shall hold any other public office, either elective or appointive, during his term of office as a member of the milk control board; and not* *more than three (3) members of the said milk control board shall, at the time of appointment or thereafter during their respective terms of office, be members of the same political party or residents of the same congressional district.*

Terms of office.

"The members of said milk control board shall be appointed within thirty (30) days after passage and approval of this act. The term of office of one member shall expire on July 1, 1960; the term of office of one member shall expire on July 1, 1961; the term of office of one member shall expire on July 1, 1962; the term of office of one member shall expire on July 1, 1963; the term of office of one member shall expire on July 1, 1964; and each succeeding member shall hold his office for a term of five years and until his successor shall have been appointed and qualified. Any vacancy shall be filled by appointment by the governor, *with the consent of the senate as hereinbefore provided,* for the unexpired term.

Reappointment of present members.

"Consumer members of the existing milk control board at the time of the passage of this act may be reappointed by the governor at his discretion for any of the terms above mentioned and persons whom he shall appoint for those initial terms expiring in 1960, 1961, and 1962 shall be eligible for reappointment to full five year terms on the board; provided, however, that after 1962 no member other than one who is appointed to fill a vacancy shall be appointed to succeed himself on said board.

Three members constitute quorum.

"Three (3) members of the board shall constitute a quorum for the regular transaction of business.

Chairman chosen by board.

"The board shall choose one (1) of its own members as the chairman, who shall hold office as chairman for one year; provided, election as chairman shall not interfere with that member's right to vote on all matters before the board.

Per diem and expenses.

"Each member of the board shall receive twenty-five dollars ($25.00) per diem for each day actually spent in the performance of his official duties, plus his actual necessary traveling and other expenses in going to, attending and returning from meetings of the board and his actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested of him

Limitation $1,500.00.

by a majority vote of the board, but in no event shall a member's per diem payments exceed fifteen hundred dollars ($1500.00) in any one year.

Bond required—$5,000.00.

"Each member of the board shall give bond conditioned for the faithful performance of his duties in the sum of five thousand dollars ($5000.00).

Power to employ.

"The board may employ necessary assistants and appoint agents and instrumentalities but all expenditure under this act shall be paid from the receipts hereunder.

Power and duty to designate executive secretary.

Bond of secretary.

"The board shall have the power and it shall be its duty to designate an executive secretary who shall serve under the direction and at the pleasure of the board and who shall have charge of the administration of the board's orders, rules, and regulations, and who shall also serve as financial officer of the board and who shall be authorized to accept or receive money paid or to be paid to the board, either as license fees or fines as provided by this act. Such person shall, before he enters upon the discharge of his duties, execute and file a bond, in such amount as may be fixed by the board, as may be provided by law for public officers.

Meetings every 60 days.

Salary of secretary.

No discrimination.

"Meetings of the board shall be had at least every sixty (60) days at the call of the *chairman or a majority of the board.* The salary of the secretary is to be fixed by the board and the state board of examiners. The board shall so enforce the act that there shall be no discrimination against any dealer or consumer."

Amending clause.

Section 3. That section 27-405 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

General powers of board.

"27-405. **General powers of the milk control board.** (1) The board is hereby vested with the powers, and it shall be its duty to supervise, regulate and control the fluid milk industry of the State of Montana, including the production, transportation, processing, storage, distribution and sale of milk in the State of Montana for consumption within the state, providing however, that nothing contained in this act shall be construed to abrogate or affect the status, force or operation of any provision of public health laws or the law under which the Montana livestock sanitary board is constituted together with the Montana livestock sanitary board regulations or county board of health regulations, or municipal ordinances for the promotion or protection of the public health, but the board shall have the power to co-operate with the state board of health, the Montana livestock sanitary board or any county or city board of health or the state department of agriculture and *industry* in enforcing the provisions of this act.

Power of board to investigate.

(2) The board shall have the power to investigate all matters pertaining to the production, transportation, processing, storage, distribution and sale of milk in the State of Montana and to conduct hearings upon any subject pertinent to the administration of this act. The board shall have the power to subpoena milk dealers, their records, books and accounts, and any other person from whom information may be desired or deemed necessary to carry out the purposes and intent of this act, and may issue commissions to take depositions of witnesses who are sick or absent from the state *or who cannot otherwise appear in person before the milk control board at its offices in the state capitol, provided at least ten (10) days notice is given to the proposed witness.*

Subpoena.

Depositions.

Duty of sheriff to execute summons, citations, notices.

(3) It shall be the duty of any sheriff of any county of the state, when requested to do so by the board, to execute any summons, citations or notice which the board may cause to be issued, for which such sheriff shall be authorized to charge the same fee against the funds provided for the milk control board as he might lawfully charge for the same service of such a document if issued from any district court of the State of Montana. Any person, other than a dealer who is cited for violation of the provisions of this act, or cited to show cause why his license should not be revoked, shall receive for his attendance before the milk control board or its duly designated agent the same compensation as is provided for a witness subpoenaed to appear before the district court, which shall be charged against the funds provided for the operation of the milk control board.

Witness fees.

Power to administer oaths and call hearings.

(4) Any duly designated agent of the board may administer oath to witnesses, *may call and give notice of price hearings when the board is not in session* and may conduct hearings or investigations and any such duly

designated agent of the board may sign and issue subpoenas requiring witnesses to appear before him or the board, and in addition to the manner provided above for the execution of subpoenas, summons and citations issued by the milk control board to witnesses or dealers, the board, through its designated agent shall have the power to serve said subpoenas, summons or citations upon any person by sending a copy of such subpoena, summons or citation, through the United States mail, postage prepaid, which said mail shall be registered with return receipt attached and such service shall be complete when said registered mail shall be delivered to said person and such receipt returned to the board or its designated agent, signed by the person sought to be summoned, subpoenaed, or cited. Obedience to a subpoena, summons or citation, issued by the board or any person authorized and designated by the board to issue said subpoena, summons or citation, may be enforced by application to any judge of the district court of the county in which such subpoena, summons or citation was issued or to any judge of the district court of the county in which such person subpoenaed, summoned or cited resides *and said court shall order compliance with said subpoena, summons or citation and upon the failure of the witness to attend, to testify, or to produce such books or papers or records as the board may have commanded, such witness may be punished for contempt of court as for failure to obey a subpoena issued by or to testify in a case pending before said court.*

Duty of court to issue proper orders.

Contempt.

Board as mediator or arbitrator.

(5) The board may act as mediator or arbitrator to settle any controversy or issue pertaining to fluid milk among or between producers, distributors, producer-distributor and/or consumers.

Specific powers not limited by this act.

"The operation and effect of any provision of this act, conferring a general power upon the milk control board, shall not impair or limit any specific power or powers granted to the milk control board by this act."

Amending clause.

Section 4. That section 27-406 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

"27-406. **Markets.** *Pursuant to the declaration of policy relating to milk set forth in section 27-401 of the*

Revised Codes of Montana of 1947, the milk control board is vested with the duty and authority to designate natural marketing areas which shall together embrace all the geographical area of the state and to prescribe and enforce minimum producer, wholesale, and retail prices in such areas in the manner set forth in this act; provided, that at all times there shall not be less than five (5) natural marketing areas in the state.

Power of board to designate marketing areas and prescribe prices.

(a) Natural marketing areas shall be established forthwith throughout the state by the board; provided that before any proposed natural marketing area is established the board, after notice of at least thirty (30) days, shall hold a hearing or hearings, at a place or places within the proposed area, at which producers and distributors doing business within said proposed natural marketing area, who are licensed by the Montana livestock sanitary board, and the consuming public may present evidence and testify; and in the event the hearing or hearings make it evident to a majority of the board that the establishment of such proposed natural marketing area is in the public interest, the board shall make findings and conclusions and proceed to establish such natural marketing area.

Procedure for establishing natural marketing areas.

(b) The board shall have the power, from time to time and at its discretion, to adjust and alter the boundaries of natural marketing areas after they have been established, if after a hearing upon notice of at least thirty (30) days to all interested parties it finds and orders such adjustment to be in the public interest.

Power to adjust boundaries.

(c) All previously established marketing areas and all price schedules, rules and regulations issued and promulgated by any previously existing milk control board in this state at the time of passage of this act are in force and effect, are hereby declared to be and remain in force and effect until altered or rescinded in the manner provided by this act.

Present markets in force until altered.

(d) The board shall at all times maintain current information on quantities of surplus Grade A milk available in the various marketing areas throughout the state, and such information shall be available to all interested parties on request."

Current information.

Section 5. That section 27-407 of the Revised Codes

Amending clause.

of Montana of 1947, be, and the same is hereby amended to read as follows:

Procedure for fixing minimum milk prices—public hearing.

"27-407. **Orders fixing** *minimum* **prices.** Prior to the fixing of prices in any market the board shall conduct a public hearing and admit evidence under oath relative to the matters of its inquiry, at which hearing the consuming public shall be entitled to offer evidence and be heard the same as persons engaged in the milk industry. The board shall by means of such hearing or from facts within its own knowledge, investigate and determine what are reasonable costs and charges for producing, hauling, handling, processing, and/or other services performed in respect to milk and what prices for milk in the several localities and markets of the state, and under varying conditions, will best protect the milk industry in the state and insure a sufficient quantity of pure and wholesome milk to adults and minors in the state, and be most in the public interest.

Factors to be considered.

"The board shall take into consideration the balance between production and consumption of milk, the costs of production and distribution, *and prices in adjacent and neighboring areas and states, so that minimum prices which are fair and equitable to producers, distributors and consumers may result.*

Notice to public of factors.

"The board shall, at least ten (10) days prior to the date set for any public hearing on minimum prices, cause notice to be given to the consuming public and the milk industry of the specific factors which shall be taken into consideration in determining costs of production and distribution and of the actual dollars and cents costs of production and distribution which preliminary studies and investigations of auditors or accountants in its employment indicate will or should be shown at the hearing, so that all interested parties will have opportunity to be heard and to question or rebut such considerations as a matter of record.

Notice to public of specific knowledge by board.

"If the board at any time proposes to base all or any part of any official order fixing minimum prices upon facts within its own knowledge, as distinguished from evidence which may be presented to it at a public hearing by the consuming public or the milk industry, the board shall, at least ten (10) days prior to the date set for any public

hearing on minimum prices, cause notice to be given to the consuming public and the milk industry of the specific facts within its own knowledge which it will consider, so that all interested parties will have opportunity to be heard and to question or rebut such facts as a matter of record.

Prices fixed by official order.

"The board, after *consideration of the evidence produced at such hearing, shall make written findings and conclusions and shall* fix by official order:

(a) The minimum prices to be paid by the milk dealers to producers and others for milk. Each order fixing *minimum* prices *shall* classify milk by forms, classes, grades or uses as the board may deem advisable and *shall* specify the minimum prices therefor.

Price where produced applies.

The milk produced in one natural marketing area and sold in another natural marketing area shall be paid for by a distributor or dealer in accordance with the pricing order of the area where produced at the price therein specified of the class or use in which it is ultimately used or sold.

Freight allowance.

No allowance for freight, other than freight for transportation of milk from the farm to plant, shall be charged to a producer by a distributor or dealer unless it is found and ordered by the board, after notice and hearing in the manner hereinbefore specified, that such an additional freight allowance is necessary to permit the movement of milk in the public interest.

Uniform basis for purchase.

All milk purchased within a natural marketing area by a distributor shall be purchased on a uniform basis of either butterfat or hundred-weight. The basis to be used shall be established by the board after the producers and the distributors of the area have been consulted.

Minimum wholesale prices.

(b) The minimum wholesale prices to be charged for milk in its various forms, classes, grades, and uses when sold by distributors or producer-distributors to retail stores, restaurants, boarding houses, fraternities, sororities, confectionaries, public and private schools, including colleges and universities, and both public and private institutions and instrumentalities of all types and description.

Minimum retail prices.

(c) The minimum retail prices to be charged for milk in its various forms, classes, grades and uses when sold by distributors, producer-distributors, and retail stores to consumers.

Limitation on prices.

A minimum *producer,* wholesale or retail price to be charged for milk shall not be fixed higher than is necessary to cover the costs of ordinarily efficient and economical milk dealers, including a reasonable return upon necessary investment.

Power of board to alter its orders.

Public hearing required.

The board may, upon its own motion, or upon application in writing from any market, or from any party at interest, alter, revise or amend any official order theretofore made by the board provided that before making, revising, or amending any order fixing prices to be charged or paid for milk in any of its *forms, classes,* grades or uses, the board shall hold a public hearing on such matter in the same manner provided herein for the original fixing of prices."

Amending clause.

Section 6. That section 27-409 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Licenses and fees for milk dealers.

"27-409. *Licenses—Milk control fund. No producer, producer-distributor, or distributor shall engage in the business of producing or selling milk subject to this act in this state without first having obtained a license from the Montana livestock sanitary board and without being licensed under this act by the milk control board. The annual fee for such license from the milk control board shall be two dollars ($2.00), shall be due and payable on or before the first day of July, commencing in the year 1959 and shall be deposited by said board to the credit of the general fund.*

Assessment for administration.

"In addition to said annual license fee, the board shall in each year, on or before the first day of April, for the purpose of securing funds to administer and enforce this act, levy an assessment upon producers, producer-distributors, and distributors as follows:

Fees.

(a) A fee of not more than five cents (5¢) per hundred weight on the total volume of all milk subject to this act produced and sold by a producer-distributor.

(b) A fee of not more than two and one-half cents (2½¢) per hundred weight on the total volume of all milk subject to this act sold by a producer.

(c) A fee of not more than two and one-half cents (2½¢) per hundred weight on the total volume of all milk subject to this act sold by a distributor, excepting that which is sold to another distributor.

Assessment paid quarterly.

Said assessment upon producer-distributors, producers, and distributors shall be paid quarterly on or before the fifteenth (15th) day of July, October, January and April of each year, commencing in July of 1959, and the amount of such assessment shall be computed by applying the fee designated by the board to the volume of milk sold in the calendar quarter immediately preceding.

Computation of assessment.

License revoked for failure to pay.

Failure of any producer, producer-distributor, or distributor to pay said assessment when due shall constitute violation of this act and his license under this act shall thereupon automatically terminate and be null and void and of no effect. Reinstatement of a license so terminated shall be effected by payment of a delinquency fee equal to thirty per cent (30%) of the assessment which was due.

Assessments paid into state milk control fund.

All assessments hereinbefore required to be paid shall be deposited by the milk control board in a special fund which is hereby created and is designated the state milk control fund; and all costs of administering this act, including the salaries of employees and assistants, per diem and expenses of board members, and all other disbursements necessary to carry out the purpose of this act, shall be paid out of said state milk control fund.

Lower assessments when.

The rates of assessment above provided are maximum rates, and the board may, if it finds the costs of administering and enforcing this act can be derived from lower rates, fix the rates at a less amount on or before the first day of April in any year."

Amending clause.

Section 7. That section 27-410 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Application for licenses.

"27-410. **Application for licenses.** An applicant for license to operate as a producer, producer-distributor, or distributor shall file a signed application upon a blank prepared under authority of the board, and an applicant shall state such facts concerning his circumstances and the nature of the business to be conducted as in the opinion of the board are necessary for the administration of this act. Such application shall certify the applicant to be the holder of all licenses required by the Montana livestock sanitary board for the conduct of his business and such application shall be accompanied by the license fee required to be paid.

Amending clause.

Section 8. That section 27-414 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Power of board to regulate fair trade practices.

Rules and regulations. Not limited to declared unfair trade practices.

"27-414. **Rules of fair trade practices.** In addition to the general and special powers heretofore set forth, the board shall have the power to make and formulate reasonable rules and regulations governing fair trade practices as they pertain to the transaction of business among licensees under this act *and among licensees and the general public. Such reasonable rules and regulations governing fair trade practices shall contain, but shall not be limited to, provisions regarding the following methods of doing business which are hereby declared unfair, unlawful, and not in the public interest:*

(a) The payment, allowance, or acceptance of secret rebates, secret refunds, or unearned discounts by any person, whether in the form of money or otherwise.

(b) The giving of any milk, cream, dairy products, services, or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of any customer.

(c) The extension to certain customers of special prices or services not available to all customers who purchase milk of like quantity under like terms and conditions.

(d) The purchasing, processing, bottling, packaging, transporting, delivering or otherwise handling in any marketing area of any milk which is to be or is sold or otherwise disposed of at less than the minimum wholesale and minimum retail prices established by the board pursuant to this act.

(e) The payment of a less price than the applicable producer price established by the board pursuant to this act by a distributor to any producer for milk which is distributed to any person, including agencies of the federal, state or local government."

Section 9. That section 27-416 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"27-416. **Reports of dealers** — *Accounting system—Records.* The board shall have the power to require all persons holding licenses under it to file with the board such reports at such reasonable or regular time as the board may require, showing such person's production, sale, or distribution of milk, and any information deemed by the board necessary which pertains to the production, sale or distribution of such milk, either under oath or otherwise, as the board may direct, and failure or refusal to file such reports when directed to do so by the board or its duly designated agent shall constitute grounds for the revocation of such person's license and shall constitute a violation for which such person may be fined as hereinafter provided, one or both, at the discretion of the board.

Power to compel reports of milk dealers.

"The board shall adopt a uniform system of accounting to be used by the distributor to account for the usage of all milk received by the distributor.

Duty to adopt uniform accounting system.

"Every distributor and producer-distributor shall keep the following records:

Records to be kept by dealers.

(a) A record of all milk, cream or dairy products received, detailed as to location, names and addresses of suppliers, prices paid, and deductions or charges made, and the use to which such milk or cream was put.

(b) A record of the quantity of each kind of milk or dairy product manufactured and the quantity and price of milk or dairy products sold.

(c) A full and complete record of all milk, cream or dairy products sold, classified as to kind and grade, showing where sold, and the amount received therefor.

(d) A record of the wastage or loss of milk or dairy products.

(e) A record of the items of handling expense.

(f) A record of all refrigeration facilities rented or sold for storage purposes to any person, showing types and sizes of the same, the location of said facilities, and the original, or duplicate original, of all agreements covering rental charges therefor.

(g) A record of all conditional sales of equipment or other property, the location of said property, and the original, or duplicate original, of all conditional sales contracts pertaining thereto.

(h) A record of all moneys loaned to wholesale customers, the terms and conditions of said loans, and the original evidence of the indebtedness based on said loans.

(i) Such other records as the board may deem necessary for the proper enforcement of the act."

Surety bonds required of distributors.

Section 10. **Bonds required of distributors—Amounts —Forms and conditions.** Every distributor before purchasing any milk from a producer shall execute and deliver to the milk control board a surety bond in the minimum sum of one thousand dollars ($1000.00), executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. Said bond shall be upon a form approved by the board, and shall be conditioned upon the payment in the manner required by this act, of all amounts due to producers for milk purchased by such licensee or applicant during the license year. Said bond shall be to the state in favor of every producer of milk. In case of failure by a distributor to pay any producer or producers for milk in the manner required by this act, the board shall proceed forthwith to ascertain the names and addresses of all producer-creditors of such distributor, together with the amounts due and owing to them and each of them by such distributor, and shall request all such producer-creditors to file a verified statement of their respective claims with the board. Thereupon the board shall bring an action on the bond on behalf of said producer-creditors. Upon any action being commenced upon said bond, the board may require the filing of a new bond; and immediately upon a recovery in any action upon such bond, such distributor shall file a new bond;

and upon failure to file same within ten (10) days in either case, such failure shall constitute grounds for the revocation or suspension of the license of such distributor. In the event that recovery upon the bond is not sufficient to pay all of the claims as finally determined and adjudged by the court, any such amount recovered shall be divided pro rata among said producer-creditors.

Amount of bond required.

The minimum bond of one thousand dollars ($1000.00) shall be required of distributors purchasing an average daily quantity of milk of less than one hundred gallons; distributors purchasing an average daily quantity of one hundred gallons and less than two hundred gallons during any calendar month during a license year shall post a bond in the amount of two thousand dollars ($2000.00); distributors purchasing an average daily quantity of two hundred gallons and less than three hundred gallons during any calendar month during a license year shall post a bond in the amount of three thousand dollars ($3000.00); distributors purchasing an average daily quantity of three hundred gallons or more during any calendar month during a license year shall post a bond in the sum of five thousand dollars ($5000.00).

Additional bonds.

In the event that any distributor so increases his purchases of milk during the license year that said purchases exceed the amount for which said distributor is bonded, said distributor shall forthwith post such additional bond or bonds as may be required to comply with the provisions of this section.

Failure to deliver bond — violation.

Failure of any distributor who purchases milk from producers to execute and deliver the bond as herein provided and required shall constitute a violation of this act; failure of any such distributor to post such additional bond or bonds as may be required to comply with the provisions of this act shall likewise constitute a violation of this act.

Duty to appoint local advisory board.

Section 11. **Local advisory boards.** Whenever a public hearing is scheduled by the milk control board in any marketing area for the purpose of fixing prices, the board shall, at least ten (10) days prior to the date set for such hearing, appoint a local advisory board, the function of which shall be to assist and advise the milk control board in matters pertaining to the production and marketing of milk in said marketing area. The local advisory board shall consist of two producers and two distributors, who are respectively actively engaged in milk production and distribution in the area. Such local advisory board shall meet with the milk control board at the call of the milk control board before, during, or after such public hearing to fix prices; and a verbatim transcript of all matters and things discussed by the milk control board with such local advisory board at all such conferences or meetings shall be prepared and shall be considered a part of the record of the hearing. The members of such local advisory board shall serve without pay, but in case conferences or meetings with the milk control board are held outside of the marketing area in which they produce or distribute milk they shall be entitled to receive actual and necessary expenses incurred in attending such meetings or conferences. In no event shall there be more than three meetings or conferences between the milk control board and such local advisory board; and in all events such local advisory board shall cease to exist when the milk control board promulgates its decision or order fixing prices following the public hearing heretofore mentioned.

Judicial review of orders on petition.

Section 12. **Judicial review of orders.** Any person or persons, jointly or severally, aggrieved by any decision or order of the milk control board may present to a court of record a petition, duly verified, setting forth that such decision or order is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within twenty (20) days after the filing and posting of the decision or order in the office of the board as required by section 27-413 of the Revised Codes of Montana of 1947.

Procedure for writ of certiorari.

Upon presentation of such petition, the court may allow a writ of certiorari directed to the board to review such decision or order of the board and shall prescribe therein the time within which a return thereto must be made to the court and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The writ shall command the board to certify fully to the court, at a specified time and place, a transcript of the record and proceedings, describing or referring to them with convenient certainty;

that the same may be reviewed by the court, and may command the board to desist from further proceedings in the matter to be reviewed.

The board shall not be required to return the original papers acted upon by it, but it shall be sufficient for the board to return certified or sworn copies thereof, or of such portions thereof, as may be called for by such writ.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

When any such writ is granted, the cause shall have precedence upon the calendar of the court, and judgment and decree shall be entered therein as expeditiously as possible. The court shall affirm, modify, or reverse the decision or order of the board in accordance with law.

Service of process on executive secretary.

Section 13. **Service of process upon board.** When any petition or complaint is filed in any court naming the milk control board as a party, process may be served upon said board by delivering to, and leaving with, the executive secretary of said board, at his office, at the state capitol, a true copy of the summons, writ, or order, as the case may be, and a true copy of the complaint, petition, or application upon which such summons, writ, or order was based. In case of the absence of the executive secretary from his office, the assistants, clerks, auditors, accountants, or other personnel in his said office shall accept and receipt for such service.

Repealing clause.

Section 14. Section 27-412 and section 27-419 of the Revised Codes of Montana of 1947, shall be, and the same are, hereby repealed.

Saving clause.

Section 15. **Severability.** If any section, subdivision, sentence or word of this act shall be determined by a court of competent jurisdiction to be unconstitutional or inoperative, such determination shall not affect the remaining portions of this act.

Repealing clause.

Section 16. **Repealing clause.** All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 17. **Immediate effect.** This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1959.

CHAPTER 193

An Act for the Submission to the Qualified Electors of the State of Montana of an Amendment to the Constitution of the State of Montana, Amending Section 6 of Article XVI of Said Constitution Relating to the Authorization of the Legislative Assembly to Provide for the Election or Appointment of County, Township, Precinct and Municipal Officers, Not Otherwise in the Constitution, Provided as Public Convenience May Require, Increasing the Limit of Time of Office from Two Years to Four Years.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 6 of Article XVI of the Constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana at the general election to be held in November, 1960.

Section 2. That section 6 of article XVI of the Constitution of the State of Montana, be, and the same is hereby amended to read as follows:

''Section 6. The legislative assembly may provide for the election or appointment of such other county, township, precinct and municipal officers as public convenience may require and their terms of office shall be as prescribed by law, not in any case to exceed *four (4) years,* except as in this constitution otherwise provided.''

Section 3. This amendment shall be submitted to the qualified electors of the State of Montana by being placed on the official ballot provided by section 23-1102 of the

Revised Codes of Montana, 1947, and as provided by law, and there shall be printed on such ballot the title of this act and the following words:

☐ For the above amendment

☐ Against the above amendment.

The elector shall designate his preference for either of the propositions by marking "X" before the proposition for which he desires to vote.

Section 4. The vote cast for and against the amendment herein proposed shall be counted, canvassed and determined by such officials and in such manner as provided by law, and if a majority of all votes cast at such election for and against such amendment shall be in favor of such amendment the governor of the State of Montana shall so declare by public proclamation, and the amendment shall be in full force and effect as a part of the constitution from and after the date of such proclamation.

(See Attorney General's Opinion, previously sent).

CHAPTER 194

An Act to Provide for the Submission to the Qualified Electors of the State of Montana an Amendment to Section 20, Article VII of the Constitution of the State of Montana Relating to the Composition, Powers and Duties of the State Board of Examiners, to Provide for the Abolishment of the State Board of Prison Commissioners as a Constitutional Body.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 20 of article VII of the Constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana, at the general election to be held in November of 1960.

Section 2. That section 20 of article VII of the Constitution of the State of Montana be, and the same is hereby amended to read as follows:

"Section 20. The governor, secretary of state and attorney general shall constitute a board of examiners, with power to examine all claims against the state, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law; and no claim against the state, except for salaries and compensation of officers fixed by law, shall be passed upon by the legislative assembly without first having been considered and acted upon by said board. The legislative assembly may provide for the temporary suspension of the state treasurer by the governor, when the board of examiners deems such action necessary for the protection of moneys of the state."

Section 3. This amendment shall be submitted to the qualified electors of the State of Montana by being placed upon an official ballot provided by chapter 11 of title 23 of the Revised Codes of Montana, 1947, as amended by chapter 79 of the session laws of Montana of 1949, and as amended by chapter 72 of the session laws of 1953, and as provided by law; and there shall be printed on such ballots the title of this act and the following words:

☐ For the above amendment

☐ Against the above amendment.

(See Attorney General's Opinion, previously sent).

CHAPTER 195

An Act to Provide for the Rehabilitation, Redevelopment, and Clearance of Blighted Areas in Cities and Towns in This State in Accordance With Urban Renewal Plans Approved by the Governing Bodies Thereof; to Define the Duties, Liabilities, Exemptions and Powers of Such Cities and Towns in Undertaking Such Activities, Including the Power to Acquire Property Through the Exercise of the Power of Eminent Domain or Otherwise, to Dispose of Property Subject to Any Restrictions Deemed Necessary to Prevent the Development or Spread of Future Deteriorated or Blighted Areas, to Issue Revenue Bonds and Other

Obligations, to Levy Taxes and Assessments and to Enter Into Agreements to Secure Federal Aid and Comply With Conditions Imposed in Connection Therewith; to Provide for an Urban Renewal Agency and its Powers Hereunder if a City or Town Determines it to be in the Public Interest; to Authorize Public Bodies to Furnish Funds, Services, Facilities and Property in Aid of Urban Renewal Projects Hereunder, and to Provide That Properties While Held by a Public Agency Hereunder Shall be Exempt from Taxation.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. **Definitions.** The following terms wherever used or referred to in this act, shall have the following meanings, unless a different meaning clearly indicated by the context:

"Agency" or "Urban Renewal Agency."

(a) ''Agency'' or ''Urban renewal agency'' shall mean a public agency created by section 16 of this act.

"Blighted area."

(b) ''Blighted area'' shall mean an area which, by reason of the substantial physical dilapidation, deterioration, defective construction, material, and arrangement and/or age obsolescence of buildings or improvements, whether residential or non-residential, inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality; inappropriate or mixed uses of land or buildings; high density of population and overcrowding; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility or usefulness; excessive land coverage; insanitary or unsafe conditions; deterioration of site; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime; substantially impairs or arrests the sound growth of the city or its environs, retards the provision of housing accommodations or constitutes an economic or social liability, and/or is detrimental, or constitutes a menace, to the public health, safety, welfare, and morals in its present condition and use.

"Bonds."

(c) "Bonds" shall mean any bonds, notes, or debentures (including refunding obligations) herein authorized to be issued.

"Clerk."

(d) "Clerk" shall mean the clerk or other official of the municipality who is the custodian of the official records of such municipality.

"Federal government."

(e) "Federal Government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

"Local governing body."

(f) "Local governing body" shall mean the council or other legislative body charged with governing the municipality.

"Mayor."

(g) "Mayor" shall mean the chief executive of a city or town.

"Municipality."

(h) "Municipality" shall mean any incorporated city or town in the state.

"Obligee."

(i) "Obligee" shall include any bondholder, agent or trustees for any bondholders, or lessor demising to the municipality property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the municipality.

"Person."

(j) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or school district; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.

"Public body."

(k) "Public body" shall mean the state or any municipality, township, board, commission, district, or any other subdivision or public body of the state.

"Public officer."

(l) "Public officer" shall mean any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or to other activities concerning dwellings in the municipality.

"Real property."

(m) ''Real property'' shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

"Redevelopment."

(n) ''Redevelopment" may include (1) acquisition of a blighted area or portion thereof; (2) demolition and removal of buildings and improvements; (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this act in accordance with the urban renewal plan, and (4) making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with the urban renewal plan.

"Rehabilitation."

(o) ''Rehabilitation'' may include the restoration and renewal of a blighted area or portion thereof, in accordance with an urban renewal plan, by (1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (2) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this act; and (4) the disposition of any property acquired in such urban renewal area (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with such urban renewal plan.

"Urban renewal area."

(p) ''Urban renewal area'' means a blighted area which the local governing body designates as appropriate for an urban renewal project or projects.

(q) ''Urban renewal plan'' means a plan, as it exists

"Urban renewal plan."

from time to time, for an urban renewal project, which plan (1) shall conform to the comprehensive plan or parts thereof for the municipality as a whole; and (2) shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

"Urban renewal project."

(r) ''Urban renewal project'' may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of blight, and may involve redevelopment in a urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan.

Findings and declarations of necessity for urban area rehabilitation.

Section 2. **Findings and declarations of necessity.** It is hereby found and declared that blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of the state exist in municipalities of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime and depreciation of property values, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities, retards the provision of housing accommodations, aggravates traffic problems and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of such areas is a matter of state policy and state concern in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, are conducive to fires, are difficult to police and to provide police protection for, and, while contributing little to the tax income of the state and its municipalities, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization and other forms of public protection, services, and facilities.

It is further found and declared that certain of such areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this act, since the prevailing condition of decay may make impracticable the reclamation of the area by rehabilitation; that other areas or portions thereof may, through the means provided in this act, be susceptible of rehabilitation in such a manner that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented; and that to the extent feasible salvable blighted areas should be rehabilitated through voluntary action and the regulatory process.

It is further found and declared that the powers conferred by this act are for public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

Encouragement of private enterprise.

Section 3. **Encouragement of private enterprise.** A municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this act, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise. A municipality shall give consideration to this objective in exercising its powers under this act, including the formulation of a workable program, the approval of urban renewal plans (consistent with the comprehensive plan or parts thereof for the municipality), the exercise of its zoning powers, the enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public improvements.

Municipality may formulate program.

Section 4. **Workable program.** A municipality for the purposes of this act may formulate a workable program for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, blighted areas, to encourage needed urban rehabilitation, to provide for the redevelopment of such areas, or to undertake such of the aforesaid activities, or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include, without limitation, provision for; the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation of blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds and other public improvements, by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of blighted areas or portions thereof.

Finding of necessity.

Section 5. **Finding of necessity by local governing body.** No municipality shall exercise any of the powers hereafter conferred upon municipalities by this act until after its local governing body shall have adopted a resolution finding that: (1) one or more blighted areas exist in such municipality; and (2) the rehabilitation, redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of such municipality; and (3) that the proposed urban renewal project has been approved by the taxpayers of such municipality at an election as provided in section 6, subsection (g) thereof.

Preparation and approval of projects.

Section 6. **Preparation and approval of urban renewal projects and urban renewal plans.** (a) A municipality shall not approve an urban renewal project for an urban renewal area unless the local governing body has, by resolution, determined such area to be a blighted area and designated such area as appropriate for an urban renewal project. The local governing body shall not approve an urban renewal plan until a comprehensive plan or parts of such plan for an area which would include an urban renewal area for the municipality have been prepared. For this purpose and other municipal purposes, authority is hereby vested in every municipality to prepare, to adopt, and to revise from time to time, a comprehensive plan or parts thereof for the physical development of the municipality as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal planning activities, and to make available and to appropriate necessary funds therefor. A municipality shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal project plan in accordance with subsection (d) hereof.

Submission of plan to local planning commission.

(b) The municipality may itself prepare or cause to be prepared an urban renewal plan, or any person or agency, public or private, may submit such a plan to the municipality. Prior to its approval of an urban renewal project, the local governing body shall submit such plan to the planning commission of the municipality for review and recommendations as to its conformity with the comprehensive plan or parts thereof for the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local governing body within sixty (60) days after receipt of it. Upon receipt of the recommendations of the planning commission, or if no recommendations are received within said sixty (60) days, then without such recommendations, the local governing body may proceed with the hearing on the proposed urban renewal project plan prescribed by subsection (c) hereof.

Public hearing.

(c) The local governing body shall hold a public hearing on an urban renewal plan after public notice thereof. Such notice shall be given by publication once each week for two consecutive weeks not less than ten (10) nor more than thirty (30) days prior to the date of the hearing in a newspaper having a general circulation in the urban renewal area of the municipality and by mailing a notice of such hearing not less than ten (10) days prior to the date of the hearing to the persons whose names appear on the county treasurer's tax roll as the owner or reputed owner of the property, at the address shown on the tax roll. The notices shall describe the time, date, place, and purpose of the hearing, shall generally identify the urban renewal area affected, and shall outline the general scope of the urban renewal plan under consideration.

Approval by local governing body.

(d) Following such hearing, the local governing body may approve an urban renewal project if it finds that (1) a workable and feasible plan exists for making available adequate housing for the persons who may be displaced by the project; (2) the urban renewal plan conforms to the comprehensive plan or parts thereof for the municipality as a whole; (3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and (4) that a sound and adequate financial program exists for the financing of said project.

Finding of blighted area.

Provided, that the local governing body must find the urban renewal project area to be blighted area as defined in section 1 (b) hereof.

Modification.

(e) An urban renewal project plan may be modified at any time by the local governing body: Provided, that if modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest may be entitled to assert.

Plan controlling as to future use.

(f) Upon the approval of an urban renewal project by a municipality, the provisions of the urban renewal plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto.

Plan submitted to vote.

(g) Upon the approval of an urban renewal project by a municipality the plan shall be submitted to a vote of the taxpayers of such municipality and shall be approved by a majority of those taxpayers voting in such election.

Powers of municipality to carry out this act.

Section 7. **Powers.** Every municipality shall have all the power necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

To undertake urban renewal projects.

(a) To undertake and carry out urban renewal projects within the municipality, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this act, and to disseminate blight clearance and urban renewal information.

To contract for repair.

(b) To provide or to arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets or roads in connection with an urban renewal project; to install, construct, and reconstruct, streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project, and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it may deem reasonable and appropriate.

To make surveys and appraisals.

To acquire and hold property.

(c) Within the municipality, to enter upon any building or property in any urban renewal area, in order to make surveys and appraisals, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain, or otherwise, any real property and such personal property as may be necessary for the administration of the provisions herein contained, together with any improvements thereon; to hold, improve, clear, or prepare for redevelopment any such property; to dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance; provided, however, that no statutory provision with respect to the acquisition, clearance, or disposition of property by public bodies shall restrict a municipality in the exercise of such functions with respect to an urban renewal project.

To invest fund.

(d) To invest any urban renewal project funds held in reserves or sinking funds or any such funds which are not required for immediate disbursement, in property or securities in which mutual savings banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to section 10 of this act at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be cancelled.

To borrow and accept funds.

(e) To borrow money and to apply for, and accept, advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county, or other public body, or from any sources, public or private, for the purposes of this act, and to enter into and carry out contracts in connection therewith. A municipality may include in any application or contract for financial assistance with the federal government for an urban renewal project such conditions imposed pursuant to federal laws as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this act.

To make plans.

(f) Within the municipality, to make or have made all plans necessary to the carrying out of the purposes of this act and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify, and amend such plans. Such plans may include, without limitation: (1) a comprehensive plan or parts thereof for the locality as a whole, (2) urban renewal plans, (3) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, (4) plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and (5) appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects. The municipality is authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of urban blight and to apply for, accept, and utilize grants of, funds from the federal government for such purposes.

Relocation.

(g) To prepare plans for the relocation of families displaced from an urban renewal area, and to make relocation payments and to coordinate public and private agencies in such relocation, including requesting such assistance for this purpose as is available from other private and governmental agencies, both for the municipality and other parties.

To appropriate funds, levy taxes, acquire land, etc.

(h) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this act, and in accordance with state law; (1) levy taxes and assessments for such purposes; (2) acquire land by negotiation and/or eminent domain; (3) close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places; (4) plan or replan, zone or rezone any part of the municipality; (5) adopt annual budgets for the operation of an urban renewal agency, department, or offices vested with urban renewal project powers under section 15 of this act; (6) enter into agreements with such agencies or departments (which agreements may extend over any period) respecting action to be taken by such municipality pursuant to any of the powers granted by this act.

Offices.

(i) Within the municipality, to organize, coordinate, and direct the administration of the provisions of this act as they apply to such municipality in order that the objective of remedying blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved, and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most effectively.

Exercise of powers.

(j) To exercise all or any part or combination of powers herein granted.

Limitation on use of public utilities except water and sewer lines.

(k) Nothing in this act shall be construed to authorize any municipality to construct or operate, as a part of any urban renewal project, any electric generation plant, electric transmission or distribution lines or other public utility facilities excepting water and sewer lines then operated by municipalities.

Eminent domain.

Section 8. **Eminent domain.** A municipality shall have the right to acquire by condemnation, any interest in real property, which it may deem necessary for an urban renewal project under this act after the adoption by the local governing body of a resolution declaring that the acquisition of the real property described therein is necessary for such purpose. Condemnation for urban renewal of blighted areas is declared to be a public use, and property already devoted to any other public use or acquired by the owner or his predecessor in interest by eminent domain may be condemned for the purposes of this act.

Compensation.

The award of compensation for real property taken for such a project shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance, or reconstruction, or proposed assembly, clearance, or reconstruction in the project area. No allowance shall be made for the improvements begun on real property after notice to the owner of such property of the institution of proceedings to condemn such property. Evidence shall be admissible bearing upon the insanitary, unsafe, or substandard condition of the premises, or the unlawful use thereof.

Disposal of property.

Section 9. **Disposal of property in urban renewal area.** (a) A municipality may sell, lease, or otherwise transfer real property or any interest therein acquired by it for an urban renewal project, in an urban renewal area for residential, recreational, commercial, industrial, or other uses or for public use, and may enter into contracts with respect thereto, or may retain such property or interest only for parks and recreation, education, public transportation, public safety, health, highways, streets, and alleys, administrative buildings, or civic centers, in accordance with the urban renewal project plan, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it may deem to be necessary or desirable to assist in preventing the development or spread of blighted areas or otherwise to carry out the purposes of this act. Provided, that such sale, lease, other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the urban renewal plan by the local governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the municipality may determine to be in the public interest, including the obligation to begin, within a reasonable time, any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, a municipality shall take into account, and give consideration to, the uses provided in such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by, the purchaser or lessee or by the municipality retaining the property; and the objectives of such plan for the prevention of the recurrence of blighted areas. The municipality in any instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease, or otherwise transfer the real property without the prior written consent of the municipality until he has completed the construction of any and all improvements which he has obligated himself to construct thereon. Real property acquired by a municipality which, in accordance with the provisions of the urban renewal plan, is to be transferred, shall be transferred as rapidly as feasible, in the public interest, consistent with the carrying out of the provisions of the urban renewal plan. The inclusion in any such contract or conveyance to a purchaser or lessee of any such covenants, restrictions, or conditions (including the incorporation by reference therein of the provisions of an urban renewal plan or any part thereof) shall not prevent the recording of such contract or conveyance in the land records of the clerk and recorder or the county in which such city or town is located, in such manner as to afford actual or constructive notice thereof.

Publication and bids.

(b) A municipality may dispose of real property in an urban renewal area to private persons only under such reasonable competitive bidding procedures as it shall prescribe or as hereinafter provided in this subsection. A municipality may, by public notice by publication once each week for three consecutive weeks in a newspaper having a general circulation in the community, prior to the execution of any contract or deed to sell, lease, or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section, invite bids from, and make available all pertinent information to, private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban renewal area, or any part thereof. Such notice shall identify the area, or portion thereof and shall state that such further information as is available may be obtained at such office as shall be designated in said notice. The municipality shall consider all redevelopment or rehabilitation bids and the financial and legal ability of the persons making such bids to carry them out. The municipality may accept such bids as it deems to be in the public interest and in furtherance of the purposes of this act. Thereafter, the municipality may execute, in accordance with the provisions of subsection (a), and deliver contracts, deeds, leases, and other instruments of transfer.

Limited holding of property.

(c) A municipality may operate and maintain real property acquired in an urban renewal area pending the disposition of the property for redevelopment, without regard to the provisions of subsection (a) above, for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan. Provided, however, that the municipality may, after a public hearing, extend the time for a period not to exceed three years.

Issuance of bonds.

Section 10. **Issuance of bonds.** (a) A municipality shall have the power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this act, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans for urban renewal projects, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall not pledge the general credit of the municipality and shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from, or held in connection with, its undertaking and carrying out of urban renewal projects under this act; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source, in aid of any urban renewal projects of the municipality under this act.

Bonds declared to be for essential public purpose—tax exempt.

(b) Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law or charter relating the authorization, issuance, or sale of bonds. Bonds issued under the provisions of this act are declared to be issued for an essential public and governmental purpose, and, together with interest thereon and income therefrom, shall be exempted from all taxes.

(c) Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, not exceeding six per centum (6%) per annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

Bonds may be sold.

(d) Such bonds may be sold at not less than ninety-eight per cent (98%) of par at public or private sale, or may be exchanged for other bonds on the basis of par: Provided, that such bonds may be sold to the federal government at private sale at not less than par and, in the event less than all of the authorized principal amount of such bonds is sold to the federal government, the balance may be sold at public or private sale at not less than ninety-eight per cent (98%) of par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the federal government.

Fund for excess taxes.

(e) The municipality may annually pay into a fund to be established for the benefit of such bonds any and all excess of the taxes received by it from the same property over and above the average of the annual taxes authorized without vote for a five-year period immediately preceding the acquisition of the property by the municipality for renewal purposes, such payment to continue until such time as all bonds payable from the fund are paid in full. Any other taxing unit in a municipality is authorized to allocate a like amount of such excess taxes to the municipality or municipalities in which it is situated.

Validation of signatures.

(f) In case any of the public officials of the municipality whose signatures appear on any bonds or coupons issued under this act shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this act shall be fully negotiable.

Validity in case of suit or proceeding.

(g) In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this act or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the provisions of this act.

Bonds as legal investments.

Section 11. **Bonds as legal investments.** All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a municipality pursuant to this act: Provided, that such bonds and other obligations shall be secured by an agreement between the issuer and the federal government in which the issuer agrees to borrow from the federal government and the federal government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on such bonds or other obligations) will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of, and the interest on, such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions, and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

Property exempt.

Section 12. **Property exempt from taxes and from levy and sale by virtue of an execution.** (a) All property of a municipality, including funds, owned or held by it for the purposes of this act, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a municipality be a charge or lien upon such property; provided, however, that the provisions of this section shall not apply to, or limit the right of, obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this act by a municipality on its rents, fees, grants, or revenues from urban renewal projects.

Declared to be public property.

(b) The property of a municipality, acquired or held for the purposes of this act, is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes of the municipality, the county, the state, or any political subdivision thereof: Provided, that such tax exemption shall terminate when the municipality sells, leases, or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body or other organization normally entitled to tax exemption with respect to such property.

Powers to enable cooperation by public bodies.

Section 13. **Cooperation by public bodies.** (a) For the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project located within the area in which it is authorized to act, any public body authorized by law or by this act, may, upon such terms, with or without consideration, as it may determine: (1) dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or other rights or privileges therein to a municipality; (2) incur the entire expense of any public improvements made by such public body, in exercising the powers granted in this section; (3) do any and all things necessary to aid or cooperate in the planning or carrying out of an urban renewal plan; (4) lend, grant, or contribute funds to a municipality; (5) enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a municipality or other public body respecting action to be taken pursuant to any of the powers granted by this act, including the furnishing of funds or other assistance in connection with an urban renewal project, and (6) cause public buildings and public facilities, including parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished; furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, sidewalks, ways, or other places; plan or replan, zone or rezone any part of the urban renewal area; and provide such administrative and other services as may be deemed requisite to the efficient exercise of the powers herein granted.

Sale or lease.

(b) Any sale, conveyance, lease, or agreement provided for in this section shall be made by a public body with appraisal, public notice, advertisement, or public bidding in accordance with provisions of section 9 (b).

General obligation bonds.

(c) For the purpose of this section, or for the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of a municipality, such municipality, in addition to any authority to issue bonds pursuant to section 10, may issue and sell its general obligation bonds. Any bonds issued pursuant to this section shall be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by such municipality for public purposes generally.

Conclusive presumption of title.

Section 14. **Title of purchaser.** Any instrument executed by a municipality and purporting to convey any right, title, or interest in any property under this act, shall be conclusively presumed to have been executed in compliance with the provisions of this act insofar as title or other interest of any bona fide purchasers, lessees, or transferees of such property is concerned.

Exercise of powers by municipality or urban renewal agency.

Section 15. **Exercise of powers in carrying out urban renewal project.** (a) A municipality may itself exercise its urban renewal project powers (as herein defined) or may, if the local governing body by resolution determines such action to be in the public interest, elect to have such powers exercised by the urban renewal agency (created by section 16) or a department or other officers of the municipality as they are authorized to exercise under this act.

(b) In the event the local governing body makes such determination, such body may authorize the urban renewal agency or department or other officers of the municipality to exercise any of the following urban renewal project powers:

(1) To formulate and coordinate a workable program as specified in section 4.

(2) To prepare urban renewal plans.

(3) To prepare recommended modifications to an urban renewal project plan.

(4) To undertake and carry out urban renewal projects as required by the local governing body.

(5) To make and execute contracts as specified in section 7, with the exception of contracts for the purchase or sale of real or personal property.

(6) To disseminate blight clearance and urban renewal information.

(7) To exercise the powers prescribed by section 7 (b), except the power to agree to conditions for federal financial assistance and imposed pursuant to federal law

relating to salaries and wages shall be reserved to the local governing body.

(8) To enter any building or property, in any urban renewal area, in order to make surveys and appraisals in the manner specified in section 7 (c).

(9) To improve, clear, or prepare for redevelopment any real or personal property in an urban renewal area.

(10) To insure real or personal property as provided in section 7 (c).

(11) To effectuate the plans provided for in section 7 (f).

(12) To prepare plans for the relocation of families displaced from an urban renewal area and to coordinate public and private agencies in such relocation.

(13) To prepare plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements.

(14) To conduct appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects.

(15) To negotiate for the acquisition of land.

(16) To study the closing, vacating, planning, or replanning of streets, roads, sidewalks, way, or other places and to make recommendations with respect thereto.

(17) To organize, coordinate, and direct the administration of the provisions of this act.

(18) To perform such duties as the local governing body may direct so as to make the necessary arrangements for the exercise of the powers and performance of the duties and responsibilities entrusted to the local governing body.

Any powers granted in this act that are not included in section 15 (b) as powers of the urban renewal agency or a department or other officers of a municipality in lieu thereof, may only be exercised by the local governing body or other officers, boards, and commissions as provided under existing law.

Assignment of powers.

Section 16. **Urban renewal agency.** (a) When a municipality has made the finding prescribed in section 5 and has elected to have the urban renewal project powers, as specified in section 15, exercised, such urban renewal project powers may be assigned to a department or other officers of the municipality or to any existing public body corporate, or the legislative body of a city may create an urban renewal agency in such municipality to be known as a public body corporate to which such powers may be assigned.

Appointment of five commissioners—terms.

(b) If the urban renewal agency is authorized to transact business and exercise powers hereunder, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency which shall consist of five commissioners. The initial membership shall consist of one commissioner appointed for one year, one for two years, one for three years, and two for four years; and each appointment thereafter shall be for four years.

Expenses.

(c) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

Majority—quorum.

The powers and responsibilities of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers and responsibilities of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the by-laws shall require a larger number. Any persons may be appointed as commissioners if they reside within the municipality.

Technical assistance and reports.

The urban renewal agency or department or officers exercising urban renewal project powers shall be staffed with the necessary technical experts and such other agents and employees, permanent and temporary, as it may require. An agency authorized to transact business and exercise powers under this act shall file, with the local governing body, on or before March 31 of each year, a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expense as of the end of such calendar year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk and in the office of the agency.

Removal from office.

(d) For inefficiency, neglect of duty, or misconduct in office, a commissioner may be removed.

Prohibition against discrimination.

Section 17. **Prohibition against discrimination.** For all of the purposes of this act, no person shall, because of race, creed, color, or national origin, be subjected to any discrimination.

Disclosure of interest.

Section 18. **Interested public officials, commissioners, or employees.** No public official, or employee of a municipality or urban renewal agency or department or officers which have been vested by a municipality with urban renewal project powers and responsibilities under section 15, shall voluntarily acquire any interest, direct or indirect, in any urban renewal project, or in any property included or planned to be included in any urban renewal project of such municipality, or in any contract or proposed contract in connection with such urban renewal project. Where such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the local governing body and such disclosure shall be entered upon the minutes of the governing body. If any such official, department or division head owns or controls, or owned or controlled within two years prior to the date of hearing on the urban renewal project, any interest, direct or indirect, in any property which he knows is included in an urban renewal project, he shall immediately disclose this fact in writing to the local governing body, and such disclosure shall be entered upon the minutes of the governing body, and any such official, department or division head shall not participate in any action on that particular project by the municipality or urban renewal agency, department, or officers which have been vested with urban renewal project powers by the municipality pursuant to the provisions of section 15. A majority of the commissioners of an urban renewal agency exercising powers pursuant to this act shall not hold any other public office under the municipality other than their commissionership or office with respect to such urban renewal agency, department, or offices. Any violation of the provisions of this section shall constitute misconduct in office.

Saving clause.

Section 19. **Separability; act controlling.** Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall be not affected thereby.

Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law.

Title—"Urban renewal law."

Section 20. **Short title.** This act shall be known and may be cited as the "Urban Renewal Law."

Approved March 10, 1959.

CHAPTER 196

An Act to Provide for the Issue and Sale by the State Board of Examiners of Bonds for the Purpose of Erecting an Unemployment Compensation Commission Building as an Adjunct to the State Capitol Building; Designating the Funds from Which Said Bonds Shall be Paid; Providing for an Unemployment Compensation Commission Building Interest and Sinking Fund; Enumerating the Powers and Duties of the State Board of Examiners in Carrying Out the Provisions of This Act; Authorizing the State Board of Land Commissioners to Purchase Said Bonds With Moneys from the Long Term Investment Fund; Providing a Savings Clause; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Authority to sell bonds for purpose of erecting unemployment compensation commission building.

Section 1. The state board of examiners of the State of Montana is hereby authorized to issue and sell bonds for the purpose of erecting an unemployment compensation commission building as an adjunct to the state capitol building at Helena, Montana, and for the purpose of landscaping and paving around said building, said building to be erected upon a site upon the present capitol building grounds, adjacent to the capitol buildings, namely lots 9 through 24, inclusive, in block 20 of the Corbin Addition to the City of Helena, County of Lewis and Clark, Helena, Montana.

Employment of architect.

Section 2. Upon the sale of the bonds, the state board of examiners is hereby empowered and directed to employ an architect to prepare plans and specifications, and to proceed with the erection of a building of suitable construction and design for use as an unemployment compensation commission building within the limitations prescribed by the United States bureau of employment security and the United States secretary of labor.

Call for bids.

Section 3. The state board of examiners shall call for bids for the construction of said building and for the landscaping and paving around it, and let contracts for the same, all in accordance with the laws of the State of Montana. Said board shall require the contractor to give bond to the State of Montana in such amount as the board may determine, conditioned for the faithful performance of his duties and contracts.

Bond sale limited to aggregate of $600,000.

Section 4. The aggregate amount of bonds authorized by this act for the purpose herein expressed shall not exceed the sum of six hundred thousand dollars ($600,000).

Specifications for bonds.

Section 5. Bonds issued and sold by the state board of examiners under authority of this act shall bear interest at a rate not exceeding five per cent (5%) per annum, payable semi-annually. They shall be either amortization or serial bonds, shall bear such date as the state board of examiners shall prescribe, and shall be payable over such period of years, not exceeding twenty (20), as said board may specify. All bonds shall be optional and redeemable five (5) years after the date of issue and on any interest payment date thereafter, at the option of the state board of examiners. Said bonds shall be in such denominations and sums and shall contain such recitals as the state board of examiners may determine, shall be signed by the governor, the attorney general, and the secretary of state as members of said board, and shall be paid at the office of the state treasurer of the State of Montana. The coupons attached to said bonds may bear the facsimile signature of the members of said board.

Sale of bonds.

Section 6. Said bonds shall be sold by the state board of examiners at such time, in such manner, and in such amounts as the board shall deem best to carry out the provisions of this act; provided that none of such bonds shall be sold for less than par, plus accrued interest to the date of delivery of the bonds. Each of said bonds shall be registered before delivery with the state treasurer of the State of Montana, who shall keep accurate accounts of payments of interest and principal upon said bonds.

Funds for payment of principal and interest.

Section 7. The principal and interest of the bonds authorized by this act shall be payable out of the following funds and from them only: All money credited to this state's account in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the social security act, as amended, and all money received from the United States secretary of labor and authorized for payment to provide office space for the central offices of the unemployment compensation commission at Helena, Montana, immediately following occupancy of said building upon completion of erection, pursuant to title III of the social security act, as amended, shall be, and the same is hereby perpetually dedicated and appropriated for the payment of the principal and interest of the bonds provided for by this act to the extent said money may be sufficient to pay the same; provided said bonds shall be issued and sold by said state board of examiners as herein provided only for the total sum or amount necessary to be raised in excess of such total of all balances or sums that may be accrued and available from said sources for erection of said building a total of six hundred thousand dollars ($600,000).

Special fund.

Section 8. To provide for the payment of the interest and principal of the bonds authorized by this act, there is hereby created a special fund to be known as the unemployment compensation commission building interest and sinking fund, into which fund shall be paid all the sums of money hereinbefore dedicated and appropriated to the payment of the principal and interest of said bonds and the erection of said building including the landscaping and paving around it.

Authority to purchase bonds.

Section 9. The state board of land commissioners is hereby authorized to purchase the bonds provided for by this act with moneys from the long term investment fund notwithstanding the provisions of sections 81-1001 and 81-1006 of the Revised Codes of Montana, 1947.

Appropriation deemed valid.

Section 10. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Saving clause.

Section 11. Every section of this act and every part of each section is hereby declared to be independent of each other, and the holding of any section or part hereof to be void or ineffective for any cause shall not be deemed to affect any other section or part hereof.

Effective immediately.

Section 12. This act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1959.

CHAPTER 197

An Act Repealing Section 92-710, Revised Codes of Montana, 1947, Relating to Hernia Cases.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That section 92-710, Revised Codes of Montana, 1947, be, and the same are hereby repealed.

Approved March 10, 1959.

CHAPTER 198

An Act to Amend Section 93-303, Revised Codes of Montana, 1947, Relating to Salaries of District Judges and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 93-303, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"93-303. **Salaries of district judges.** The annual salary of each district judge shall be *nine thousand five hundred dollars ($9,500).*"

Salary of district judges increased to $9,500.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1959.

CHAPTER 199

An Act to Make it the Duty of the Mayor of Any City of the Third Class Which Does Not Have the Police Commission, Upon the Written Request of a Policeman Employed by the City as Such for Ten Years or More to Appoint a Police Commission in Accordance With Section 11-1804 Revised Codes of Montana, 1947; Providing for Procedure as Set Forth in Section 11-1806 Revised Codes of Montana, 1947; Providing for an Effective Date; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause. Duty of mayor of city of third class to appoint police commission.

Section 1. It is hereby made the duty of the mayor of any city of the third class which does not have a police commission, upon the written request of any policeman who has been employed by said city as such for a period of ten years or more, to appoint a police commission in accordance with the provisions of section 11-1804 Revised Codes of Montana, 1947, which commission shall then proceed under the provisions of section 11-

1806, Revised Codes of Montana, 1947, before such policeman can be discharged or terminated from his employment as a policeman.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1959.

CHAPTER 200

An Act to Prohibit Any Person, Persons, Partnership, Firm, Corporation or Association from Operating a Beer, Liquor or Other Alcoholic Beverage, Bottle Club, and Providing a Penalty Therefor; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Operation of bottle clubs prohibited.

Section 1. The operation of a beer or liquor, or alcoholic beverage bottle club is hereby prohibited by any person, persons, partnership, firm, corporation or association.

Penalty.

Section 2. A violation of this act shall be deemed a nuisance and may be abated, and any person, persons, partnership, firm, corporation or association found guilty of violating this section shall be punished by fine of not more than five hundred dollars ($500.00), or by six (6) months in the county jail, or by both such fine and imprisonment.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1959.

CHAPTER 201

An Act to Require Commercial Tow Cars to be Equipped With Lights and Warning Devices for the Protection of Motorists; by Prescribing the Procedure for Mounting and Displaying Such Lights and Warning Devices; by Providing That the Operators of Commercial Tow Car Must Clean Debris from Roadway at Accident Scenes; by Providing for Warning Devices on Disabled Vehicles Being Towed During Hours of Darkness; by Fixing Penalty for Violation of Act; by Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Commercial tow car requirements.** Every commercial tow car used to tow a vehicle by means of a crane, hoist, tow bar, tow line, or dolly shall:

Tow car requirements.

(a) Be equipped with and carry not less than two (2) red flares or two (2) red lanterns or two (2) warning lights or reflectors, which reflectors shall be of a type approved by the Montana Highway Patrol Board.

Two red flares, lanterns or reflectors.

(b) Be equipped with at least two (2) highway warning signs of a uniform type prescribed by the Montana Highway Patrol Board and shall be so designed as to be visible both day and night. The operator of a commercial tow car used for the purpose of rendering assistance to other vehicles shall, when the rendering of assistance necessitates the obstruction of any portion of the roadway outside a business or residence district, place a highway warning sign two hundred (200) feet in advance of and two hundred (200) feet to the rear of the disabled vehicle, except as otherwise provided in this section. When a motor vehicle is disabled on the highway, such tow car operator called to render assistance during the hours of darkness shall immediately upon arrival place warning signs upon the highway as prescribed in this section and in addition thereto shall place not less than one (1) red flare, red lantern or warning light or reflector in close proximity to each warning sign.

Two warning signs.

(c) Be equipped with and carry a fire extinguisher

Fire extinguisher.

of at least two (2) quart capacity of a type capable of extinguishing a fire.

Flashing or steady red light.

(d) Be equipped with a lamp emitting a flashing or steady red light mounted on top of the cab of the tow car or on the top of the crane or hoist if such light can be seen from the front of the tow car. The light from such lamp must be visible for a distance of one thousand (1,000) feet under normal atmospheric conditions, and shall be mounted in such a manner that it can be securely fastened with the lens of the lamp facing the rear of the tow car upon which it is mounted. When standing at the location from which the disable vehicle is to be towed, the operator of the tow car may unfasten the red light and place it in any position deemed advisable to warn approaching drivers. When the disabled vehicle is ready for towing the red light must be turned to rear of the tow car upon which it is mounted and securely locked in this position. Additional red lights of an approved type may be displayed at either or both sides of the tow car as the case may warrant during the period of preparation at the location from which the disabled vehicle is to be towed.

Brooms.

(e) Be equipped with one (1) or more brooms and the operator of the tow car engaged to remove a disabled vehicle from the scene of an accident shall remove all glass and debris deposited upon the roadway by the disabled vehicle which is to be towed.

Shovel.

(f) Be equipped with and carry a shovel and whenever practical the tow car operator engaged to remove any disabled vehicle shall spread dirt upon that portion of the roadway where oil or grease has been deposited by such disabled vehicle.

Cord for display of red light on rear of disabled vehicle.

(g) Be equipped with and carry a portable electrical extension cord for use in displaying a light on the rear of the disabled vehicle. The length of such extension cord shall not be less than the length of the combined vehicles and whenever a disabled vehicle is towed during the hours of darkness and the rear lamp or lamps on the disabled vehicle cannot be lighted, the tow car operator shall provide for such rear light by means of the extension cord herein referred to.

The owner or operator or a commercial tow car who complies with the requirements of this section may stop or park such tow car upon a highway for the purpose of rendering assistance to a disabled vehicle, notwithstanding other provisions of this code.

Authority to park on highway.

Section 2. **Penalty.** Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and subject to a penalty not to exceed one hundred dollars ($100.00).

Penalty.

Section 3. That all acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 10, 1959.

CHAPTER 202

An Act to Provide for Salary Schedules for Various Elected Officials and Administrative Heads, Whatever Title They May Have, of Various Boards, Bureaus and Commissions; Making it Unlawful to Accept a Subordinate Position at an Increased Salary to Avoid the Intent of This Act; Defining the Scope of Salaries, But That Such Scope Shall Not Limit Certain Longevity Pay; Repealing Sections 25-501, 25-502, 25-503, and 25-505 of the Revised Codes of Montana, 1947; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The annual salaries paid to the various elected officials of the State of Montana shall be as follows:

Salaries of elected officials of state.

Governor	$14,000.00
Chief justice of the supreme court	11,500.00
Justices of the supreme court, each	11,500.00
Attorney General	9,500.00
State auditor	8,000.00
Superintendent of public instruction	8,500.00
Railroad commissioner	8,000.00
State treasurer	8,000.00
Secretary of state	8,000.00
Clerk of the supreme court	6,500.00

Expenses.

Section 2. The salary of each such officer shall be for all services required of him or which may hereafter devolve upon him by law, including all services rendered ex officio as a member of any board, commission or committee, but shall not include actual and necessary traveling, lodging and subsistence expenses incidental to his official duties; provided, however, that this provision shall not apply to the salary of the supervisor of the highway patrol so as to deprive him of his length-of-service salary increase as provided by section 31-105 of these codes.

Repealing clause.

Section 3. That sections 25-501, 25-502, 25-503, and 25-505 of the Revised Codes of Montana, 1947, are hereby repealed.

Repealing clause.

Section 4. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1959.

CHAPTER 203

An Act Amending Section 92-1005 of the Revised Codes of Montana of 1947, as Amended by Chapter 176 of the Session Laws of Montana of 1957, Relating to the Assessment of Insurers Insuring Employers Who Elect to Become Bound by Compensation Plan Two (2) of the Workmen's Compensation Act, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-1005 of the Revised Codes of Montana of 1947 as amended by chapter 176 of the Session Laws of Montana of 1957, be, and the same is hereby amended to read as follows:

"Section 92-1005 (2982) **Policies made subject to this act**—*Assessment of insurers.*

Policy form for plan No. 2 of workmen's compensation act.

"Every policy for the insurance of the compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of this act. No insurer shall enter into any such policy of insurance unless its forms shall have been approved by the board, and as otherwise provided by law.

Tax on premiums.

"On or before the first day of July of each year, the board shall assess and each insurer shall pay to the board not to exceed *three and one-fourths* per cent (3¼%) of its gross annual direct premiums collected in Montana on policies of insurance insuring employers who elected to become bound by the Compensation Plan No. 2 during the previous calendar year, less return premiums. No such assessment shall be less than ten dollars ($10.00). The treasurer of the board shall pay the amounts so collected into the Industrial Administration Fund. Payments by such insurers under this section shall be considered as items of loss for rate-making purposes."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1959.

CHAPTER 204

An Act to Amend Section 32-2145, Revised Codes of Montana, 1947, Replacement Volume Three (3), Providing for the Establishment of State Speed Zones.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-2145, Revised Codes of Montana, 1947, Replacement Volume Three (3), be, and the same is hereby amended to read as follows:

Authority to establish speed zones.

"32-2145. **Establishment of state speed zones.** Whenever the board shall determine upon the basis of an engineering and traffic investigation that any speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, said board may determine and declare a reasonable and safe speed limit thereat which when appropriate signs giving notice thereof are erected shall be effective at all times or during hours of daylight or darkness or at such

Not to be construed as authority to set state-wide speed limit.

other times as may be determined at such intersections or other place or part of the highway. *This act is not in any way to be construed as authority to set a state-wide speed limit.*"

Approved March 10, 1959.

CHAPTER 205

An Act to Amend Section 4-333, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 165, Session Laws, 1949; as Amended by Section 1, Chapter 55, Session Laws, 1955; Relating to Powers of the Montana Liquor Control Board in the Issuing of Retail Beer Licenses, the Number of Such Licenses That May be Issued; Providing for a Repealing Clause; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 4-333, Revised Codes of Montana, 1947 as amended by section 1, chapter 165, Session Laws 1949; as amended by section 1, chapter 55, Session Laws 1955; be, and the same is hereby amended to read as follows:

Issuance of retail beer licenses.

"4-333. (2815.36) **Issuance of retail beer licenses—Limit on number of—Off-premises beer licenses—Lapse and cancellation.** (1) Except as otherwise provided by law, a license to sell beer at retail in accordance with the provisions of this act and the regulations of the Montana liquor control board, may be issued to any person, firm or corporation who shall be approved by a majority of the board as a fit and proper person, firm or corporation to sell beer; provided, that the number of retail beer licenses that the board may issue shall be determined as folllows:

Limitation on number according to population of incorporated cities and towns.

(a) The number of retail beer licenses that the board may issue for premises situated within incorporated cities and incorporated towns and within a distance of five (5) miles from the corporate limits of such cities and towns shall be determined on the basis of population as shown by the most recent official United States census authorized by Congress, to-wit: In incorporated towns of five hundred (500) inhabitants or less and within a distance of five (5) miles from the corporate limits of such towns, not more than two (2) retail beer licenses to be used in conjunction with retail liquor licenses and not more than one (1) additional retail beer license which shall not be used in conjunction with a retail liquor license; in incorporated cities or incorporated towns of more than five hundred (500) inhabitants and not over two thousand (2,000) inhabitants and within a distance of five (5) miles from the corporate limits of such cities or towns, two (2) retail beer licenses for the first five hundred (500) inhabitants and one (1) retail beer license for each additional five hundred (500) inhabitants, which said retail beer licenses shall be used in conjunction with retail liquor licenses, and one (1) additional beer license for each five hundred (500) inhabitants which said beer license shall not be used in conjunction with retail liquor licenses; in incorporated cities of over two thousand (2,000) inhabitants and within a distance of five (5) miles from the corporate limits of such cities, five (5) retail beer licenses for the first two thousand (2,000) inhabitants and one (1) retail beer license for each additional one thousand (1,000) inhabitants which said retail beer licenses shall be used in conjunction with retail liquor licenses, and two (2) additional retail beer licenses for the first two thousand (2,000) inhabitants or major fraction thereof and one (1) additional retail beer license for each additional two thousand (2,000) inhabitants which shall not be used in conjunction with retail liquor licenses. The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of five (5) miles from the corporate limits thereof, shall govern the number of retail beer licenses that may be issued for use within such cities and towns and within a distance of five (5) miles from the corporate limits thereof; provided, that where two (2) or more incorporated municipalities are situated within a distance of five (5) miles from each other, the total number of retail beer licenses that may be issued for use in both of such municipalities and within a distance of five (5) miles from their respective corporate limits, shall be determined on the basis of the combined populations of both of such municipalities and shall not exceed the foregoing limitations. The said distance of five (5) miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or town. Retail beer licenses of issue on the date of the passage and approval of this act and which are in excess of the foregoing limitations shall be renewable, but no new licenses shall be issued in violation of such limitations; provided, that such limitations shall not prevent the issuance of a nontransferable and nonassignable retail beer license to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization, if such veterans' or fraternal organization has been in existence for a period of five (5) years or more prior to January 1, 1949. No incorporated city or incorporated town may by ordinance restrict the number of licenses that the board may issue; provided that no retail beer license may be issued by the board for any premises situated within any zone of such city or town wherein the sale of beer is prohibited by ordinance, a certified copy of which has been filed with the board. The board shall have discretion to deny the issuance of a retail beer license if it shall determine that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

Discretion of board determines number of licenses outside five mile limits.

(b) The number of retail beer licenses that the board may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of five (5) miles from the corporate limits thereof, or for use at premises situated within any unincorporated town shall be as determined by the board in the exercise of its sound discretion; provided, that no retail beer license shall be issued for any premises so situated unless the board shall determine that the issuance of such license is required by public convenience and necessity.

Licenses to sell packaged beer for off-premise consumption.

"(2) A retail license to sell beer in the original packages for off-premise consumption only may be issued to any person, firm or corporation who shall be approved by a majority of the board as a fit and proper person, firm or corporation to sell beer. The number of such licenses that the board may issue shall not be limited by the provisions of subsection (1) of this section, but shall be determined by the board in the exercise of its sound discretion, and the board may in the exercise of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for cause. The annual license fee for a license to sell beer at retail for off-premises consumption shall be the same as for a retail beer license.

Lapse provisions.

"(3) From and after February 1, 1949, any retail license issued pursuant to this act (including any retail license to sell beer for off-premises consumption), not actually used in a going establishment for a period of ninety (90) days, shall automatically lapse. Upon determining the fact of nonuser for such period the board shall cancel such license of record and no portion of the fee paid therefor shall be refundable. The provisions of this subsection shall not apply to the license of any licensee whose premises are operated on a seasonal basis in connection with a bona fide dude ranch, resort, park hotel, tourist facility or like business, provided such licensee has secured written authority from the board to close his licensed premises for a specified period of greater than ninety (90) days' duration, *and providing further that should the liquor control board determine that such lapse was reasonably beyond the control of the licensee, then the lapse provision set out above shall not apply.*"

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1959.

CHAPTER 206

An Act to Amend Section 4-403, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 164, Session Laws 1949; as Amended by Section 1, Chapter 144, Session Laws 1951; as Amended by Section 1, Chapter 56, Session Laws 1955; Relating to the Powers of the Montana Liquor Control Board in the Issuing of Retail Liquor Licenses; Providing for a Repealing Clause; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 4-403 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 164, Session Laws 1949; as amended by section 1, chapter 144, Session Laws 1951; as amended by section 1, chapter 56, Session Laws 1955; be, and the same is hereby amended to read as follows:

Issuance of retail liquor licenses.

"4-403. **Issuance of retail liquor licenses — Limit on number of licenses — Retail wine licenses — lapse and cancellation.** (1) Except as otherwise provided by law, a license to sell liquor at retail in accordance with the provisions of this act and the regulations of the Montana liquor control board, may be issued to any person who shall be approved by a majority of the board as a fit and proper person to sell liquor; provided, that the number of retail liquor licenses which the board may issue shall be determined as follows:

Limitation on number according to population of incorporated cities and towns.

(a) The number of retail liquor licenses that the board may issue for premises situated within incorporated cities and incorporated towns and within a distance of five (5) miles from the corporate limits of such cities and towns shall be determined on the basis of population as shown by the most recent official United States census authorized by Congress, to-wit: In incorporated towns of five hundred (500) inhabitants or less and within a distance of five (5) miles from the corporate limits of such towns, not more than two (2) retail liquor licenses; in incorporated cities or incorporated towns of more than five hundred (500) inhabitants and not over two thousand (2000) inhabitants and within a distance of five (5) miles from the corporate limits of such cities and towns, two (2) retail liquor licenses for the first five hundred (500) inhabitants and one (1) retail liquor license for each additional five hundred (500) inhabitants; in incorporated cities of over two thousand (2000) inhabitants and within a distance of five (5) miles from the corporate limits thereof, five (5) retail liquor licenses for the first two thousand (2000) inhabitants and one (1) retail liquor license for each additional one thousand (1000) inhabitants. The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of five (5) miles from the corporate limits thereof, shall govern the number of retail liquor licenses that may be issued for use within such cities and towns and within a distance of five (5) miles from the corporate limits thereof; provided, however, that where two (2) or more incorporated municipalities are situated within a distance of five (5) miles from each other, the total number of retail liquor licenses that may be issued for use in both of such municipalities and within a distance of five (5) miles from their respective corporate limits, shall be determined on the basis of the combined populations of both of such municipalities and shall not exceed the foregoing limitations. The said distance of five (5) miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or town. Retail liquor licenses of issue on the date of the passage and approval of this act and which are in excess of the foregoing limitations shall be renewable, but no new licenses shall be issued in violation of such limitations; provided that such limitations shall not prevent the issuance of a nontransferable and nonassignable retail liquor license to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization, if such veterans' or fraternal organization has been in existence for a period of five (5) years or more prior to January 1, 1949. No incorporated city or incorporated town may by ordinance restrict the number of licenses that the board may issue; provided that no retail license may be issued by the board for any premises situated within any zone of a city or town wherein the sale of liquor is prohibited by ordinance, a certified copy of which has been filed with the board. The board shall have discretion to deny the issuance of a retail license if it shall determine that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

Discretion of board determines number of licenses outside five-mile limits.

(b) The number of retail liquor licenses that the board may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of five (5) miles from the corporate limits thereof, or for use at premises situated within any unincorporated town shall be as determined by the board in the exercise of its sound discretion; provided that no retail liquor license shall be issued for any premises so situated unless the board shall find that the issuance of such license is required by public convenience and necessity.

Lapse provisions.

"(2) From and after February 1, 1949, any retail license issued pursuant to this act not actually used in a going establishment for a period of ninety (90) days, shall automatically lapse. Upon determining the fact of nonuser for such period the board shall cancel such license of record and no portion of the fee paid therefor shall be refundable. The provisions of this subsection shall not apply to the license of any licensee whose premises are operated on a seasonal basis in connection with a bona fide dude ranch, park hotel, tourist facility or like business, provided such licensee has secured written authority from the board to close his licensed premises for a specified period of greater than ninety (90) days' duration, *and providing further that should the liquor control board determine that such lapse was reasonably beyond the control of the licensee, then the lapse provision set out above shall not apply.*"

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1959.

CHAPTER 207

An Act to Reduce and Manage Fire Hazards Created by Cutting Timber; Providing for the Reduction of Slash and Forest Debris Along Right-of-Way; and Providing for a Penalty for Noncompliance of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Reduction of management of fire hazard created by cutting timber.

Section 1. **Reduction or management of fire hazard created by cutting timber.** Everyone engaged, or about to engage, in the cutting of any forest product or conducting standing improvement such as, but not limited to, thinning, weeding and pruning, upon private lands within the State of Montana shall provide for the reduction or management of the fire hazard to the property of others thus created or to be created by entering into a Fire Hazard Reduction Agreement as provided in sections 5 through 9, inclusive of this act, or by posting a bond to the State of Montana in such form and for such amount as may be prescribed by the state forester; provided, however, that the amount of the bond so prescribed shall not be in excess of the amount which such person would be required to pay under said sections 5 through 9, inclusive, and that the bond shall be conditioned upon full and faithful compliance with all requirements under said sections 5 through 9, inclusive, and the faithful reduction or management of such fire hazards in the manner prescribed by law. Such bond shall be released upon completion of the work in compliance with the terms of the bond. The state forester shall issue a certificate of compliance with the terms of this section to all persons who have complied therewith.

Reduction of slash and debris along right-of-way.

Section 2. **Reduction of slash and forest debris along right-of-way.** Everyone clearing right-of-way for any railroad, public highway, public trail, private road, trail, ditch, dyke, pipeline or wire lines, or any other transmission or transportation utility right-of-way, except temporary roads located within the boundaries of the cutting area and which are used in the actual logging operations, shall reduce the hazard resulting from such clearing or from the cutting of material for the construction of such public or private utility unless exempted by the state forester.

Permit extending time.

Hazard reduction, including burning where this method of disposal is used, shall be done as rapidly as cutting or clearing progresses; provided that upon application to the state forester he may grant a permit extending the time within which such burning must be done in compliance with all the provisions of this chapter relating to burning permits during the closed season.

Applies to all clearing of rights-of-way.

The provisions of the section shall apply to all clearing of rights-of-way across private land and on behalf of the state, county, highway districts and road districts, whether the work be done by day labor, or by contract, and unless unavoidable emergency prevents, provision shall be made by the proper officials conducting, directing, or letting said work for withholding until it is complete, a sufficient portion of the payment therefore to assure compliance with this act.

Violations.

Violations of any of the provisions of this section shall be deemed a misdemeanor and be punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1000.00).

Remedy.

In addition to the penalty herein provided the offender may be enjoined, at the instance of the state forester from proceeding with such work until the provisions of this section shall have been complied with; and, upon application of the state forester to any court of competent jurisdiction, a writ of mandate shall issue compelling the offender to fully comply with the provisions thereof.

Duty of purchaser to insure compliance.

Section 3. **Purchaser will insure compliance, prior to purchase, will transmit withheld money to state forester —Penalty.** The initial purchaser of forest products which have been cut or are about to be cut from any private lands within the State of Montana, shall before making such purchase or contract to purchase determine that the persons, firm or corporation engaged, or about to engage, in the cutting of these forest products, has provided for the reduction or management of the fire hazard thus created, as provided in sections 1 through 9 inclusive. When the Hazard Reduction Agreement provides that the purchaser of forest products shall withhold monies to insure faithful compliance with sections 1 through 9 of this act, said purchaser will transmit any monies which are withheld to the state forester.

Violation.

Violation of any of the provisions of this section shall be deemed a misdemeanor and be punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1000.00).

Remedy for failure to properly dispose of slash.

Section 4. **Disposal of slash — Injunction against further cutting — Disposal at expense of owner — Lien and enforcement — orders.** In the event one responsible therefore shall fail, refuse or neglect to properly dispose of slash in accordance with the requirements of sections 1 and 3, and such person responsible therefore is engaged or is about to engage, either for himself or for another, in cutting timber or other forest products, and thereby creating a fire hazard anywhere within the state, he may be enjoined from cutting such timber and thereby creating a fire hazard until he shall have complied with the provisions of sections 1 and 3. Such injunction proceedings may be instituted by the state forester as plaintiff and the court may in its discretion grant a temporary injunction. In any such proceedings no bond shall be required of the plaintiff and such proceedings shall be handled with expedition in the district court of the county where the land is located.

State forester may direct disposal.

If one responsible therefore has for any reason failed to comply with sections 1 and 3, and has without such compliance cut any forest products and shall fail, refuse, or neglect to obtain compliance for a period of thirty days after being notified so to do by the state forester, the state forester, may, if he deems it advisable, complete, direct or authorize the disposal of such slash at the expense of the owner of the timber or other forest products cut or produced from the land upon which such fire hazard remains undisposed of as aforesaid.

Expense of such disposal to be lien on forest products.

The cost and expense of such disposal, plus twenty per cent (20%) of the cost and expense of such disposal as a penalty, shall constitute a lien upon the forest products so cut or produced from such land. If payment of the sum demanded be not made to the state forester within ten (10) days of such written demand, the state forester must transfer all papers relative to the unsatisfied demand for payment to the attorney general of the state, who shall bring legal action on behalf of the state to recover the debt.

Certificate of compliance.

The state forester shall not file for record any lien against the property of any person who has been issued a certificate of compliance with sections 1 and 3, covering such property.

Orders of state forester.

All orders and directions issued by the state forester as required by this section and section 1 shall be in writing and made in duplicate, the original of which shall be sent or delivered to the person to receive such orders, permits or directions; one copy shall be filed in the office of the state forester.

Supervision by state forester.

Section 5. **Supervision by state forester.** The state forester, under such rules as the state board of forestry may provide, shall supervise the reduction or management of any fire hazard to the property of others created by the cutting of any forest product on private land in the State of Montana.

The reduction or management of fire hazards referred to in this act may include or be limited to the taking of protective measures to prevent injury or the destruction of forest resources without actual abatement of the hazard.

Delegation of powers to state fire wardens.

Section 6. **Delegation of powers to state fire wardens.** The state forester is hereby authorized and empowered to delegate any power granted to the state forester under sections 5 through 9, inclusive, to any state forest fire warden.

Authority of state forester to contract with owners of forest land.

Section 7. **Contracts with owners of forest lands.** The state forester is hereby authorized and empowered to enter into agreements with the owners of any forest lands or any operator engaged in operations on lands within the State of Montana whereby slash is created, and under said contract the state forester may assume all responsibility for the reduction or management of any fire hazard; any such contract shall provide the amount to be paid by the owner or operator to the state forester by reason of his agreement to assume the reduction or management, of such fire hazard. Said amount shall not exceed one dollar ($1.00) for each one thousand (1000) feet log scale, or the equivalent thereof if forest products other than logs are cut.

Methods of reducing hazards.

Section 8. **Methods of reducing hazards — Contracts with forest protective agencies.** The reduction or management of such fire hazards shall be carried on by the state forester and the state fire wardens in keeping with modern and progressive forest practices and more effective fire control and the state forester is hereby authorized to enter into contracts with forest protective agencies, including agencies of the United States of America, for the reduction or management of such fire hazards when in his opinion the work can best be accomplished in that manner. The state forester, state fire wardens, and recognized forest protective agencies, including any agency of the United States of America, with which the state forester has entered into an agreement for the reduction or management of any fire hazard as herein provided, and any officer or official of such agency, shall not be liable for any damage to the land, product, improvement, or other things of value of whatsoever nature upon the lands on which the fire hazards are being managed or reduced in accordance with provisions of section 5 through 9, inclusive, when all requisite care and caution has been used and such work is being or has been performed in compliance with the rules provided in section 5.

Certificate of clearance.

Section 9. **Certificate of clearance.** Any owner or operator who has entered into a contract with the state forester for the reduction or management of any fire hazard and upon payment of the contract price in accordance with the terms of said contract and the full compliance with the terms of said contract by such owner or operator, shall be granted a certificate of clearance and be relieved of any and all further liability and responsibility for the removal or reduction of any such fire hazard; provided, however, that in such event the operator shall deposit a cash bond, equivalent to the contract price, with the state forester conditioned upon the faithful performance of said contract.

Approved March 10, 1959.

CHAPTER 208

An Act to Insure Collection of the Montana State Income Tax Upon the Income of Nonresidents, and to Provide for Withholding of Portions of Certain Payments to Nonresidents and Payment of the Amounts So Withheld to the State Board of Equalization as Partial Payment of Such Nonresidents' Income Tax; to Provide That Certain Types of Payments Shall Not be Subject to Withholding Under This Act; to Provide for the Method of Collection and Payment of Amounts withheld; to Provide for and Define the Duties of Withholding Agents Under the Act and Penalties for Failure of Such Agents to Withhold or Pay; and to Provide for the Powers and Duties of the State Board of Equalization, County Assessors, and County Clerks and Recorders Under This Act, and Providing a Saving Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Collection of income taxes of non-residents.

Section 1. In order to insure collection, in the manner and to the extent provided by section 84-4907, Revised Codes of Montana, 1947, as amended, of the income tax imposed upon the income of nonresidents by section 84-4903, Revised Codes of Montana, 1947, withholding of portions of certain payments to nonresidents and payment of the amounts so withheld to the state board of equalization as partial payment of such nonresidents' income tax in the manner set forth in the following sections shall be, and hereby is, required.

Withholding of payment.

Section 2. Every person, firm, corporation, association, partnership, or fiduciary doing business in or having income in the State of Montana, including the State of Montana, its agencies, and instrumentalities, counties, cities, towns, school districts, and municipal corporations of every kind, which knowingly makes payments of any kind to any nonresident of the State of Montana for services performed within the State of Montana other than those described in sections 84-4942 and 84-4943, Revised Codes of Montana, 1947, or for casual sales of property, either real or personal, located within the State of Montana, or for leases, rentals or royalties derived from property located within the State of Montana, or any prizes or winnings payable from or within the State of Montana, or hiring or having a contract with any nonresident of a temporary nature to be carried out within the State of Montana, shall deduct from such payment or payments an amount to be set by the state board of equalization, not to exceed three per cent (3%) of such payment, which shall be transmitted by him to the state board of equalization as partial payment of such nonresident's income tax.

Section 3. Payments made for livestock or agricultur products raised or grown outside Montana, and sold at a market within this state shall not be subject to withholding under this act.

Exemption.

Section 4. Every such person, firm, etc., required to withhold such payments under the provisions of section 2 above preceding shall be known as a withholding agent within the meaning of this act.

Withholding agent.

Section 5. Withholding agents required to deduct and withhold tax payments under the provisions of section 2 shall remit such payments quarterly to the state board of equalization, beginning July 1st, 1959 and for each quarterly period thereafter on or before the last day of the month following the close of such quarterly period.

Remittance of amounts withheld.

Provided, however, that when the aggregate total mount of the tax withheld under the provisions of section 2 shall amount to less than ten dollars ($10.00) in each quarterly period of any year, such withholding agent shall not be required to file the quarterly returns or to make the quarterly payments last hereinabove provided for, but in lieu thereof such withholding agent shall, on or before February fifteenth of the year next succeeding that in which such payments were withheld, file an annual return in such form as shall be determined by the board, and shall pay therewith the amount required by this act to be deducted and withheld by such withholding agent from all payments paid during the preceding calendar year.

Section 6. The conditions set forth in section 2 may be modified by the state board of equalization provided:

Modification.

(a) The withholding agent shall insure the board by bond or deposit of securities subject to approval by the state treasurer, or cash which shall not bear interest, that he will comply with the withholding requirements

Bond of withholding agent.

insofar as his obligation as a withholding agent is concerned, or

Affidavit of non-resident taxpayer.

(b) The nonresident taxpayer shall furnish to the state board of equalization under such rules and regulations as it may prescribe an affidavit as to the correct amount of taxable income subject to the provisions of this act, in which case the state board of equalization shall determine the amount to be withheld.

Penalty for failure to withhold.

Section 7. If any withholding agent knowingly fails to withhold or pay to the state board of equalization any sums required by this act to be withheld and paid, the same additions to the amount of such tax shall be imposed and added as those specified in section 84-4924, Revised Codes of Montana, 1947, with respect to failure to make a return of income or to pay any income tax; and any individual, corporation or partnership, or any officer or employee thereof, who, with intent to evade any tax or any requirement of this act, or who, with like intent, files or supplies any false or fraudulent statement or information, shall be liable to the same penalties as those imposed by section 84-4924, Revised Codes of Montana, 1947, with respect to filing or supplying any false or fraudulent statement or information with respect to income taxes.

Board may require payment at any time.

Section 8. If the state board of equalization in any case has reason to believe that the collection of the tax provided for in this section is in jeopardy, it may require the withholding agent to make such return and pay such tax at any time.

Withholding agent as trustee of funds.

Section 9. In addition to the penalties above-provided, if any withholding agent shall withhold any sums required to be withheld and paid over to the state board of equalization under this act, the amount of the sums so withheld shall constitute a first lien against all property, real and personal, tangible and intangible, of the withholding agent, which lien shall take precedence over all others, it being the intention of this act that the funds withheld by the withholding agent shall be considered funds held in trust by the withholding agent.

No right of action for withholding.

Section 10. No nonresident taxpayer shall have any right of action against a withholding agent on account of any monies withheld and paid over to the state board of equalization under this act, but nothing in this section shall be construed as removing any legal rights or remedies of such nonresident taxpayer for return of any tax erroneously or illegally collected or for any refund that may be due him.

Sum withheld deemed to have been paid.

For the purposes of any contract, leases or other obligations, any sum withheld pursuant to this act shall be deemed to have been paid to the nonresident at the time of such withholding.

Duty of county assessor to list non-resident taxpayers.

Section 11. It shall be the duty of the county assessor of every county in this state to prepare annually a list showing the names and addresses of all nonresident ad valorem taxpayers in his county, as shown on the current assessment roll, and forward such list to the state board of equalization after the completion of the roll on the second Monday in July but not later than September thirtieth of each year.

Duty of county clerk to list loans on grain.

Section 12. It shall be the duty of the county clerk and recorder of every county in this state to prepare monthly a list showing such information as may be prescribed by the state board of equalization with respect to each loan made to a nonresident upon grain for which a chattel mortgage has been filed in his office and such list shall be mailed to the state board of equalization not later than the tenth day of the month following.

Powers.

Section 13. The state board of equalization is hereby empowered to make all necessary rules and regulations for carrying out and enforcing this act.

Saving clause.

Section 14. If any portion, section, subsection, paragraph, sentence, clause or phrase of this act is for any reason held to be unconstitutional which decision shall not affect the remainder of the act.

Approved March 10, 1959.

CHAPTER 209

An Act to Amend Section 46-1501 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter

103, Laws of 1951, Relating to the Creation, Size, Location and Dissolution of Herd Districts; to Provide for Herd District Sizes to Contain Twelve (12) Square Miles, Lying Not Less Than One (1) Mile in Width, When Located Outside of Incorporated Cities. To provide for the Repeal of All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 46-1501 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 103, Laws of 1951, be, and the same is hereby amended to read as follows:

Procedure for creating herd districts.

"46-1501. (3384) **Herd districts—Creation, size, location—Dissolution — Exclusion of government land — Records.** (a) Herd districts may be created in any county in the State of Montana to contain *twelve (12)* square miles or more, lying not less than *one (1) mile* in width, outside of the incorporated cities; excepting only that herd districts may be created containing not less than six (6) nor more than fifty-four (54) square miles, lying not less than two (2) miles in width, when such territory joins and is contiguous with the boundaries of a city having a population of ten thousand (10,000) or more and such territory so to be created in a herd district has a suburban population of not less than two hundred (200) people; upon petition of owners or possessors of fifty-five per centum (55%) of the land in such district, and providing twenty-five per centum (25%) or more of the land in such district is in actual cultivation, *or being used for residential purposes.*

"In formation of such a district the entire holding of any owner or lessee must be included unless such owner or lessee consent that less than his entire contiguous holdings be included in the petition. And such petition shall designate the months of the year when herd district is effective, and upon presentation and filing of such petition, properly signed, giving outside boundaries and description of proposed district and the post-office address of the signers thereto, with the clerk and recorder in the county in which the said district is being created, the county commissioners of such county, upon receipt

Hearing. **Publication.**

thereof, shall set a date for hearing protests and verifying the signatures thereto, and shall give not less than twenty (20) days' notice of the same by three (3) publications in a newspaper of general circulation in the county of the proposed district. At the hearing held pursuant to such notices the county commissioners shall examine the petition and shall cause a map to be made in order to determine the shape and regularity of the boundaries of the proposed district. The said commissioners may then establish the district, but such district shall be established only in such manner that the district will be reasonably regular and symmetrical in shape, or practicable in relation to the geographical features of such district.

Notice.

"Should it appear to such county commissioners after such hearing that the signatures attached to such petition were genuine, they shall immediately declare such herd district created and established; after which the county commissioners must give notice by four (4) weekly publications in some newspaper nearest the district of the creation of such districts, also stating period such districts will be in effect, and such districts shall not be in effect until thirty (30) days have expired after the order. Upon petition of any owner or possessor of lands lying contiguous and adjoining any herd district theretofore created, and upon like hearing and notice as hereinabove provided for, such lands shall be included in said herd district and become a part thereof. Should the signature of lessee appear on the petition creating or abolishing any herd district, the owner or owners of said land may appear either in person or agent and enter their protest. And the board of county commissioners shall remove the name of the lessee from said petition, and no person shall be permitted to withdraw his name after the hour set for hearing same.

Petition for dissolution.

"(b) When a petition praying that any established herd district be dissolved is filed with the county clerk and recorder of the county wherein such district has been established, and it is set forth therein that such petition is signed by the owners or possessors of fifty-five per cent (55%), or more of the lands lying within such district, and that less than twenty-five per cent (25%) of the lands included in such district is in actual cultivation, the said county clerk and recorder shall call such petition to the attention of the board of county commissioners of the county at its next regular meeting; and at said meeting by its order the said board shall set such petition for hearing at a specified time on a day certain of which notice shall be given by publication at least once in each week for three (3) successive weeks in some newspaper of general circulation in the county.

Hearing.

Publication.

Findings of board of county commissioners.

"At the time fixed for hearing the board of county commissioners shall first require proof of publication of the notice of said hearing to be made and thereafter shall consider the petition and hear all interested parties. At the conclusion of any such hearing if the board of county commissioners shall find that notice of the hearing has been given in the manner and for the time prescribed herein and that the owners or possessors of fifty-five per cent (55%), or more of the lands lying within such herd district have signed the petition and request that such district be dissolved, and that less than twenty-five per cent (25%), of the lands included in such district are in actual cultivation, then the said board shall forthwith spread such findings upon its minutes and thereupon shall enter an order in terms that by reason of such findings and of the proceedings had upon such petition the said herd district is thereby dissolved. Forthwith upon the making and entry of any such order aforesaid the herd district affected thereby shall be dissolved for all purposes thereafter.

Order of dissolution.

Exclusions of certain tracts.

"(c) Any tract of land embraced within any established herd district and which contains eighteen (18) government sections of land, or more, so located that at least one-fourth (¼) of the perimeter of such tract coincides with the existing boundaries of such herd district, may be excluded therefrom upon proceedings had before the board of county commissioners of the county wherein the said district has been established on a like petition, notice and hearing and by a like order as in the case of proceedings for dissolving herd districts; provided that when the exclusion of any such tract of land from an existing herd district is sought the petition shall describe the tract to be excluded with common certainty and shall set forth that it is signed by the owners or possessors of fifty-five per cent (55%), or more of the lands lying within the boundaries of the tract to be excluded, and that less than fifteen per cent (15%), of the lands included in such tract is in actual cultivation; and provided further that in any such case if the board of county commissioners at the conclusion of the hearing had shall find that the tract of land to be excluded conforms to the requirements of this section and that the allegations of the petition are true its findings to that effect shall be spread upon the minutes and the board shall thereupon enter its order in terms that by reason of such findings and of the proceedings had upon such petition the tract of land described in the petition which shall be further set forth with common certainty in the order is thereby excluded from such herd district for all purposes thereafter. Forthwith upon the making and entry of any such order of exclusion the tract of land therein described shall be deemed for all purposes thereafter to be excluded from and to form no part of the herd district affected thereby.''

Section 2. All acts or parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Approved March 11, 1959.

CHAPTER 210

An Act to Amend Section 32-1616, Revised Codes of Montana, 1947, Relating to the Selling of Lands by the State Highway Commission and the Procedure Therefor; Providing That the State Highway Commission May Exchange Real Property Acquired by the State for Other Needed Lands; Providing for the Sale of Personal Property; Providing That the Commission Shall Also Have the Power to Sell Printed Matter and to Set a Reasonable Price Therefor; by Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 32-1616, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: **Amending clause.**

Power of state highway commission to sell land not needed.

"32-1616. **Highway commission may sell** *or trade* **lands when and how.** *Personal property and printed matter. (a)* The state highway commission of the State of Montana shall have the power to sell any interest in real estate, however acquired, *by its state highway commission,* belonging to the State of Montana and which is not necessary to the laying out, altering, construction, improvement or maintenance of any state highway. If the property sought to be sold is reasonably of a value in excess of one hundred dollars ($100.00), the sale shall be to the highest bidder at public auction or by sealed bids to the discretion of the highway commission, at the office of the state highway commission, highway building in the city of Helena, Montana, after previous notice given by publication in a newspaper published in the county in which said real estate is situated, notice to be published once a week for two (2) successive weeks. *Provided, however, the landowner from whom such land had been originally acquired by the state, or his successor in interest, shall have the option to purchase such land by offering therefor an amount of money equal to the highest bid received for such land. Such offer must be sent to the state highway commission by registered mail within ten (10) days from the date of such sale and such* sale shall be for cash, lawful money of the United States. In all sales in property of a value in excess of one hundred dollars ($100.00) there must, before any sale, be an appraisal thereof by the highway commission and at a price representing a fair market value of such property and such appraised value shall be stated in the notice of sale. No sale shall be made of any property unless it has been appraised within three (3) months prior to the date of sale and no such sale shall be made for less than ninety per cent (90%) of the appraised value. If no bid or offer is made for any property offered for sale after appraisal and notice given as provided herein, the highway commission may at any time thereafter sell such property at private sale and may on such private sale accept as the purchase price therefor an amount not less than ninety per cent (90%) of the appraised value thereof. No title to any property sold under the provision thereof shall pass from the State of Montana until the purchaser shall have paid the full amount of the purchase price therefor into the state treasury to the credit of the state highway fund.

Sale by bid.

Proviso—option of landowner to repurchase.

Appraisal prior to sale.

No title passes until full amount is paid.

Provided, however, that whenever the state highway commission determines that any real property or any interest therein which is owned by the state through its state highway commission, however acquired, is no longer necessary to the laying out, altering, construction, improvement or maintenance of any state highway, the highway commission may exchange such real property or any interest therein, either as whole or partial consideration, for any other real property or interest therein needed for highway purposes, in the manner and upon the terms and conditions approved by the highway commission. Provided further, that the landowner from whom such land had been originally acquired by the state, or his successor in interest, shall have the right to require the state highway commission to offer such land for sale upon the same terms and conditions hereinbefore set out. The state highway commission must notify such landowner or successor in interest of its intention to exchange such real property and such landowner or successor in interest must make his demand for sale upon the state highway commission by registered mail within ten (10) days after receipt of such notice of intention to exchange.

Power to exchange lands.

Right of landowner to reacquire.

"(b) The state highway commission shall further have the power to sell at public or private sale, to be determined by the commission, any interest in personal property however acquired by the state highway commission, and belonging to the State of Montana, and which is not necessary to the laying out, altering, construction, improvement or maintenance of any state highway or the administration thereof.

Power to sell personal property not needed.

"(c) The highway commission shall also have the power to sell at public or private sale, maps, books, pamphlets or other printed matter prepared, or acquired, by the highway commission, and copies of any highway records to the public, and is authorized to set a reasonable price therefor.

Power to sell printed matter.

"The proceeds from each such sale shall be paid into the state treasury to the credit of the state highway fund."

Payment of proceeds.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 11, 1959.

CHAPTER 211

An Act to Amend Section 53-615.1, Revised Codes of Montana, 1947, Enacted as Section 1, Chapter 251 of the Session Laws of the Thirty-third Legislative Assembly of Montana, 1955, Relating to Three-Unit Combination — Fees in Lieu of Gross Weight Fees Provided in 53-615 — Marking on Tractor; Providing That Semitrailers or Trailers Shall Also Be Required to Have Marked Thereon the Total Gross Vehicle Weight for Which Tax Has Been Paid; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 53-615.1, Revised Codes of Montana, 1947, as amended by Section 1, Chapter 251 of the Session Laws of the Thirty-third Legislative Assembly of Montana, 1955, be, and the same is hereby amended to read as follows:

Registration of three-unit combinations used on Montana highways.

''53-615.1. **Three-unit combination — Fees in lieu of gross weight fees provided in 53-615—Marking on tractor.** In lieu of the gross weight fees provided in section 1 of chapter 219 of the Session Laws of 1951, as amended by section 1 of chapter 139 of the Session Laws of 1953, or as subsequently amended (being section 53-615 of the Revised Codes of Montana, 1947), the owner of any motor truck or truck-tractor used or to be used on the highways of the State of Montana in connection with two (2) trailers or semitrailers at the same time, as a three-unit combination, shall register all such vehicles to be operated by such owner as three-unit combinations, in the following manner:

Payment of fees for truck or tractor on basis of gross vehicle weight.

(1) By paying the registration and fees covering the maximum practical gross vehicle weight for such truck or truck-tractor, but not less than the actual operating gross weight under the provisions of section 53-122, as amended, section 53-615, as amended, and section 53-114, as amended, and

Fees for trailers on basis of gross vehicle weight.

(2) By registering such trailers in accordance with the provisions of section 53-114, as amended, and section 53-122, as amended, and by paying the gross vehicle weight fee prescribed for the maximum trailing load in

accordance with the provisions of section 53-615, as amended, on each two (2) trailers, on the combined gross vehicle weight, computed as a single unit.

Marking of vehicles.

(3) Vehicles on which fees are paid in accordance with this provision shall be marked with a distinctive mark to be designated by the highway commission and the tractor, truck-tractor, *semitrailers or trailer* shall have marked thereon the gross vehicle weight for which tax has been paid but nothing herein shall be construed as authorizing axle loads in excess of those provided by section 32-1123, as amended, of the Revised Codes of Montana, 1947."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 212

An Act to Amend Section 16-1015 of the Revised Codes of Montana, 1947, Replacement Volume Two (2) as Amended by Chapter Forty-eight (48), Session Laws of Montana, 1957, Relating to the Powers and Duties of County Commissioners to Levy an Annual Tax on the Taxable Property of the County to Defray Current Expenses, Including Salaries Not Otherwise Provided for, Not Exceeding Sixteen (16) Mills for Any One (1) Year and to Levy Such Taxes as Are Required by Special or Local Statutes; Providing for an Additional Levy of Four (4) Mills for a Prescribed Period; and Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 16-1015, of the Revised Codes of Montana, 1947, Replacement Volume Two (2), as amended by Chapter Forty-eight (48), Session Laws of Montana, 1957, be, and the same are hereby amended to read as follows:

"16-1015. (4465.12) **Taxation.** The Board of County Commissioners has jurisdiction and power under such

Power to levy property tax not exceeding 16 mills.

limitations and reservations as are prescribed by law: To levy such tax annually on the taxable property of the county, for county purposes as may be necessary to defray the current expenses thereof, including the salaries otherwise unprovided for, not exceeding sixteen (16) mills, *except as hereinafter provided,* on each dollar of the taxable valuation for any one (1) year to levy such taxes as are required to be levied by special or local statutes. Provided, however, that on and after July 1, 19*59*, and extending to June 30th, 19*61*, the Board of County Commissioners is authorized in its discretion to levy *an additional four (4)* mills on each dollar of the taxable valuation for any one (1) year, *provided, however after that period of time the levy of sixteen (16) mills shall still be in effect.*"

Power to levy additional 4 mills between July 1, 1959 and June 30, 1961.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 213

An Act to Amend Sections 67-406 and 67-407, Revised Codes of Montana, 1947, Relating to the Period During Which the Absolute Power of Alienation May Be Suspended and to Establish the American Common Law Rule Against Perpetuities, and to Repeal All Acts or Parts of Acts in Conflict Herewith, Including Specifically the Following Sections of the Revised Codes of Montana, 1947: Sections 67-422, 67-513, 67-515, 67-516, 67-517 and 67-518.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 67-406, Revised Codes of Montana, 1947, be, and is hereby amended to read as follows:

Limitation on period of suspension of power of alienation.

"67-406. (6705) **How long it may be suspended.** *(a)* The absolute power of alienation cannot be suspended by any limitation or condition whatever, for a *period longer than twenty-one (21) years after some life in being* *at the creation of the interest and any period of gestation involved in the situation to which the limitation applies. The lives selected to govern the time of suspension must not be so numerous or so situated that evidence of their deaths is likely to be unreasonably difficult to obtain.*

When interest must vest.

"*(b) When interest must vest. No interest in real or personal property shall be good unless it must vest not later than twenty-one (21) years after some life in being at the creation of the interest and any period of gestation involved in the situation to which the limitation applies. The lives selected to govern the time of vesting must not be so numerous nor so situated that evidence of their deaths is likely to be unreasonably difficult to obtain. It is intended by the enactment of this statute to make effective in this state the American common law rule against perpetuities.*"

Rule against perpetuities.

Amending clause.

Section 2. That Section 67-407, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Future interests suspending power of alienation void.

"67-407. (6706) **Future interests suspending power of alienation void.** Every future interest is void in its creation which, by any possibility, may suspend the absolute power of alienation for a longer period than is prescribed in this chapter. Such power of alienation is suspended when there are no persons in being by whom an absolute interest in possession can be conveyed. *The period of time during which an interest is destructible pursuant to the uncontrolled volition and for the exclusive personal benefit of the person having such a power of destruction is not to be included in determining the existence of a suspension of the absolute power of alienation or the permissible period for the vesting of an interest within the rule against perpetuities.*"

Computation of time.

Repealing clause.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed, including specifically sections 67-422, 67-513, 67-515, 67-516, 67-517 and 67-518, Revised Codes of Montana, 1947.

Approved March 11, 1959.

CHAPTER 214

An Act to Provide That No Statutory or Common Law Rule or Provision Relating to Restraints Against Alienation, Suspension of the Power of Alienation, Accumulations of Income, Perpetuities or Remoteness of Vesting Shall Apply to Trusts Which Are Part of a Pension, Retirement, Insurance, Savings, Stock Bonus, Profit-Sharing or Similar Plan, and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Exempting certain income plans from rule against perpetuities.

Section 1. No statutory or common law rule or provision relating to restraints against alienation, suspension of the power of alienation, accumulations of income, perpetuities or remoteness of vesting shall apply to any trust heretofore or hereafter created as part of a pension, retirement, insurance, savings, stock bonus, profit-sharing or similar plan established or maintained for the benefit of employees, eligible to participate in such plan, of an employer or of a group of employers, or for the benefit of the members, eligible to participate in such plan, of any labor union or of any other association or group of employees, or for the benefit of other beneficiaries eligible to participate in such plan.

Trusts declared valid.

Section 2. Any such trust shall be valid, notwithstanding any such statutory or common law rule or provision, which but for this act, might otherwise be applicable to and invalidate such trust.

Repealing clause.

Section 3. All acts or parts of acts in conflict with any portion of this act are hereby repealed.

Approved March 11, 1959.

CHAPTER 215

An Act Vesting in District Courts the Exclusive Jurisdiction of Proceedings Involving Unlawful Operation of Motor Vehicle by Persons Under Eighteen (18) Years of Age; Providing Penalties for Unlawful Operation of Motor Vehicles by Persons Under Eighteen (18) Years of Age; Providing for the Issuance of Summons and for Further Proceedings Before the District Court Relating to Unlawful Operation of Motor Vehicles by Persons Under Eighteen (18) Years of Age, and Relating to Enforcement of Penalties Imposed in Such Proceedings; and Providing for an Effective Date and Repealing All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Jurisdiction of district court in proceedings concerning unlawful operation of motor vehicles by persons under 18 years of age.

Section 1. The district courts of the State of Montana shall have exclusive original jurisdiction in all proceedings concerning the unlawful operation of motor vehicles by children under the age of eighteen (18) years. Whenever, after a hearing before the court, it shall be found that a child under the age of eighteen (18) years has unlawfully operated a motor vehicle, the court may (a) impose a fine, not exceeding fifty dollars ($50.00), (b) may revoke the driver's license of such child, or suspend the same for such time as may be fixed by the court, and (c) may order any motor vehicle owned or operated by such child to be impounded by the probation officer for such time, not exceeding sixty (60) days, as shall be fixed by the court; provided, however, that if the court shall find that the operation of such motor vehicle was without the consent of the owner, then such vehicle shall not be impounded. Upon nonpayment of any fine herein provided for, the court may order that any motor vehicle owned by said child or operated by said child with the consent of the owner shall be impounded until the fine shall be paid, or may order that the driver's license of such child shall be taken up and held by the probation officer until payment of said fine, or may cause both said motor vehicle and said driver's license to be taken up and impounded until such fine shall be paid; but no child shall be committed to or held in any detention facility or jail by reason of nonpayment of such fine.

Service of summons.

Section 2. Whenever any child under the age of eighteen (18) years shall unlawfully operate a motor vehicle in the presence of any peace officer of any county, city or town, or in the presence of any state highway patrolman, such officer may deliver to said child a form of summons describing the nature of the offense, with instructions thereon to report to the district court of the county wherein the offense occurs; and the court shall be informed thereof by the delivery of a copy of said summons to the probation officer, who shall in turn deliver the same to the district judge.

Hearing and investigation. Section 3. Whenever the court shall be informed that a child has unlawfully operated a motor vehicle said child shall be required to appear before the court and the court shall, after a hearing and investigation, take action as provided in Section 1 hereof, or may dismiss the proceeding if it be found and determined that it is for the best interests of the child so to do.

Effective immediately. Section 4. This act shall be in full force and effect from and after its passage and approval.

Repealing clause. Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 216

An Act to Amend Sections 23-1302, 23-1303, and 23-1307 of the Revised Codes of Montana, 1947, as Amended, Relating to Voting by Absent Electors, to Provide That an Absentee Voter May Make Application for Absentee Ballot, If for Any Reason, He Expects to Be Absent from His County; to Provide for Affidavit of Physical Incapacity and Setting Forth the Facts to Be Contained Therein; to Provide That the Application and the Affidavit With the Ballot Must Be Sworn to by Some Officer Authorized to Administer Oaths Pursuant to the Laws of the Place of Execution; to Provide That a Person May Cast an Absentee Ballot in Any Foreign Country; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That Section 23-1302 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows:

Procedure for application for absentee ballot by affidavit.

"23-1302. (716) **Application of absentee or physically incapacitated person for ballot.** At any time within forty-five (45) days next preceding such election, any voter expecting to be absent on the day of election from the county in which his voting precinct is situated, *for any reason whatsoever,* or who as a result of physical incapacity, in all probability will be unable to attend his voting precinct poll as made to appear by *his affidavit,* plainly stating the nature of the physical incapacity of the applicant, and *stating* (a) that such incapacity will continue beyond the day of the election for which the application is made; (b) to the extent of reasonably preventing applicant from going to the polls, bodily health considered, may make application to the county clerk of such county, or to the city or town clerk, in the case of a municipal, general, or primary election, for an official ballot or official ballots to be voted at such election as an absent or physically incapacitated voter's ballot or ballots."

Amending clause.

Section 2. That Section 23-1303 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows:

Form of application blanks furnished by county clerk.

"23-1303. (717) **Form of application.** Application for such ballots shall be made on a blank furnished by the county clerk of the county of which the applicant is an elector, or the city or town clerk, if it be municipal, general, special or primary election, and shall be in substantially the following form:

"I, ..., a duly qualified elector of the..precinct, in the county of ...., and State of Montana, and am to the best of my knowledge and belief entitled to vote in such precinct in the next election, expecting to be absent from said county or, in all probability, to be physically incapacitated from going to my precinct poll on the day for holding such election, hereby make application for an official ballot to be voted by me at the said election.

....

Post office address to which ballot is to be mailed..............

State of .... }
} ss.
County of .... }

On this................day of......................................., personally appeared before me.., who being first duly sworn, deposes and says that he is the person who signed the foregoing application, that he has read and knows contents of same and knows to his own knowledge the matters and things therein stated are true.

....
...."

Subscribed on oath according to laws of place of execution.

"This application must be subscribed by the applicant and sworn to before some officer authorized to administer oaths, *pursuant to the laws of the place of execution,* and the application shall not be deemed complete without this affidavit.

Application by military personnel by written request.

"Provided that application for such ballot by any voter in the armed services of the United States or in the merchant marines of the United States, or who is a civilian outside the United States officially attached to and serving with the armed forces of the United States may be made by a written request, signed by said applicant, addressed to the county clerk of the county of residence of said voter."

Amending clause.

Section 3. That Section 23-1307 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows:

Affidavit subscribed on oath according to laws of place of execution.

"23-1307. (721) **Marking and swearing to ballot by elector.** Such voter shall make and subscribe the said affidavit before an officer authorized by law to administer oaths, *pursuant to the laws of the place of execution* and may do so at any place *including any foreign country,* before any officer authorized by the laws *of the place of execution* to take acknowledgments of instruments, and such voter shall thereupon, in the presence of such officer and of no other person, mark such ballot or ballots, but in such manner that such officer cannot see the vote, and such ballot or ballots thereupon, in the presence of such officer, shall be folded by such voter so that each ballot shall be separate, and so as to conceal the vote, and shall be, in the presence of such officer, placed in

Marking of ballot.

Folding and placing ballot in sealed envelope.

such envelope securely sealed. Said officer shall thereupon append his signature and official title at the end of said jurat and affidavit. Said envelope shall be mailed by such absent or physically incapacitated voter, postage prepaid, or delivered to the county or city or town clerk, as the case may be."

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 217

An Act to Amend Section 16-1629 of the Revised Codes of Montana, 1947, Relating to Lighting Systems in Rural Improvement Districts, to Provide Optional Methods of Assessment of Maintenance Costs for Lighting in Said Districts; Containing a Repealing Clause; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 16-1629 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Power of board of county commissioners to contract for purpose of furnishing light to rural improvement districts.

"16-1629. (4601.1) **Maintenance of lighting system in rural improvement districts—Contract for furnishing light—Apportionment of costs—Maintenance fund—Lien of assessment.** (1) When there has been, or shall be, created a rural improvement district, according to the provisions of sections 16-1601 through 16-1632, for the purpose of securing a lighting system for the territory embraced in such rural improvement district, and no expense of construction is incurred by such rural improvement district in the installation of such lighting system, and it is necessary only to secure funds for the maintenance and operation of said system, and lights for said territory can best be secured by entering a contract for such lighting with some other person or corporation, the board of county commissioners of such county may enter into a contract with other persons or corporation for the purpose of furnishing light to said rural improvement district.

Apportionment and assessment of costs of service.

(2) The cost of said service to said rural improvement district may be apportioned among the various tracts of land within said improvement district in proportion to the assessed value of said lands *within said improvement district* as determined by the said board of county commissioners, *or at the option of said board, in proportion to the lineal front footage as determined by said board of each tract, any part of which is in the district, and abuts the street or roadway along which the lighting system is to be maintained, or in proportion to the area as determined by said board of that portion of each tract included in the district;* and before the first Monday of September of each year, the board of county commissioners shall pass, and finally adopt a resolution levying and assessing all the property within the district, an amount equal to the whole cost of maintaining said lighting system, and the same shall be proportioned against the several tracts of land in said district as provided herein. Said resolution levying assessments to defray the cost of maintenance shall be prepared and certified to in the manner as near as may be to a resolution levying assessments for making, constructing, and installing the improvements in said special improvement districts, and the money collected therefor, shall be paid into a fund known as Special Improvement District No........................ Maintenance Fund, the number of which shall correspond with the number of the special improvement district in which the improvements so maintained are situated, and such funds shall be used to defray the expense of maintenance of said system, and for no other purpose. Any such assessment levied and made for any purpose in this section mentioned, together with all cost and penalties, shall constitute a lien upon and against the property upon which said assessments are made and levied from and after the date of the final passage and adoption of the resolution levying the same, which lien can be only extinguished by payment of such assessments, with all penalties, costs and interest."

Special fund.

Lien on property.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective immediately.

Approved March 11, 1959.

CHAPTER 218

An Act to Amend Section 41-801 (f), Revised Codes of Montana, 1947, Defining Vocational Rehabilitation and Vocational Rehabilitation Services by Inserting Therein the Words "In So Far As Possible"; and to Amend Section 41-805 and Section 41-806, Revised Codes of Montana, 1947, by Deleting Therefrom the Word "Vocational"; Containing a Repealing Clause and Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 41-801 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: Amending clause.

"41-801. **Definitions.** As used in this act: Definitions.

(a) 'State board' means the state board of education; "State Board."

(b) 'Bureau' means the bureau of vocational rehabilitation established by this act; "Bureau."

(c) 'Director' means the director of the bureau of vocational rehabilitation; "Director."

(d) 'Employment handicap' means a physical or mental condition which constitutes, contributes to or if not corrected, will probably result in an obstruction to occupational performance; "Employment handicap."

(e) 'Disabled individual' means any person who has a substantial employment handicap; "Disabled individual."

(f) 'Vocational rehabilitation and vocational rehabilitation services' mean any services, provided directly or through public or private instrumentalities, found by the director to be necessary to compensate a disabled individual for his employment handicap, and to enable him *in so far as possible* to engage in "Vocational rehabilitation."

a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance, counseling and placement, rehabilitation training, physical restoration, transportation, occupational licenses, customary occupational tools and equipment, maintenance, and training books and materials;

"Rehabilitation training."

(g) 'Rehabilitation training' means all necessary training provided to a disabled individual to compensate for his employment handicap including, but not limited to, manual, pre-conditioning, pre-vocational, vocational and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and capacities;

"Physical restoration."

(h) 'Physical restoration' means any medical, surgical or therapeutic treatment necessary to correct or substantially reduce a disabled individual's employment handicap within a reasonable length of time including, but not limited to, medical, psychiatric, dental and surgical treatment, nursing services, hospital care not to exceed ninety (90) days, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory conditions;

"Prosthetic appliance."

(i) 'Prosthetic appliance' means any artificial device necessary to support or take the place of a part of the body or to increase the acuity of a sense organ;

"Occupational licenses."

(j) 'Occupational licenses' means any license, permit or other written authority required by any governmental unit to be obtained in order to engage in an occupation;

"Maintenance."

(k) 'Maintenance' means money payments not exceeding the estimated cost of subsistence during vocational rehabilitation;

"Regulations."

(1) 'Regulations' means regulations made by the director with the approval of the state board."

Amending clause.

Section 2. That section 41-805 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

State board shall cooperate with federal government.

"41-805. **Cooperation with federal government.** The state board, through the bureau, shall cooperate, pursuant to agreements, with the federal government in carrying out the purposes of any federal statutes pertaining to rehabilitation and is authorized to adopt such methods of administration as are found by the federal government to be necessary for the proper and efficient operation of such agreements or plans for rehabilitation and to comply with such conditions as may be necessary to secure the full benefits of such federal statutes."

Section 3. That section 41-806 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"41-806. **Receipt and disbursement of rehabilitation funds.** The state treasurer is hereby designated as the custodian of all funds received from the federal government for the purpose of carrying out any federal statutes pertaining to rehabilitation. The state treasurer shall make disbursements from such funds and from all state funds available for rehabilitation purposes upon certification in the manner provided in section 41-803. (e)."

Receipt and disbursement of rehabilitation funds.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 11, 1959.

CHAPTER 219

An Act to Amend Section 23-929 of the Revised Codes of Montana, 1947, as Amended by Section 3, Chapter 266 of the Montana Session Laws of 1955, Relating to Manner of Election of County and City Central Committeemen, to Delete the Limitation Limiting the Meetings of County and City Central Committeemen to the Year When a President of the United States is to be Elected.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 23-929 of the Revised Codes of Montana, 1947, as amended by section 3, chapter 266

Amending clause.

of the Montana Session Laws of 1955, be, and the same is hereby amended to read as follows:

Election of county and city central committeemen.

"23-929. **County and city central committeemen, how elected.** (1) There shall be elected by each political party subject to the provisions of this act, at said primary nominating election, two (2) committeemen, one (1) of which shall be a man and one (1) of which shall be a woman, for each election precinct, who shall be residents of such precincts. Any elector may be placed in nomination for committeeman and committeewoman of any precinct by a writing so stating, signed by such elector, and filed in the office of the county clerk within the time required in this act for the filing of petitions naming individuals as candidates for nomination at the regular biennial primary election. The names of the various candidates for precinct committeemen and committeewomen of each political party shall be printed on the ticket of the same in the same manner as other candidates and the voter shall express his choice among them in like manner as for such other candidates.

Powers and terms.

"(2) The committeemen and committeewomen thus elected shall be the representatives of their political party in and for such precinct in all ward or subdivision committees that may be formed. The committeemen and committeewomen elected in each precinct in each county shall constitute the county central committee of each of said respective political parties. Those committeemen and committeewomen who reside within the limits of any incorporated city or town shall constitute ex-officio the city central committee of each of said respective political parties and shall have the same power and jurisdiction as to the business of their several parties in such city matters that the county committee have in county matters, save only the power to fill vacancies in said committee, which power is vested in the county central committee. Each committeeman and committeewoman shall hold such position for the term of two (2) years from the date of the first meeting of said committee immediately following their election.

Vacancies.

"(3) In case of a vacancy happening, on account of death, resignation, removal from the precinct, or otherwise, the remaining members of said county committee may select a committeeman or committeewoman to fill the vacancy and he shall be a resident of the precinct in which the vacancy occurs. Said county and city central committees shall have the power to make rules and regulations for the government of their respective political parties in each county and city, not inconsistent with any of the provisions of this law, and to elect two (2) county members of the state central committee, one (1) of which shall be a man and one (1) of which shall be a woman, and the members of the congressional committee, and said committee shall have the same power to fill all vacancies and make rules in their jurisdiction that the county committees have to fill county vacancies and to make rules. In the event there is no county central committee in any county the state central committee of the political party having no county central committee in said county shall appoint a county central committee therein to consist of committeemen and committeewomen as herein provided and said county central committee shall have the same powers and duties as county central committee elected, as now provided by law.

Power to make nominations.

"(4) Said county and city central committee shall have the power to make nomination to fill vacancies occurring among the candidates of their respective parties nominated for city or county offices by the primary nominating election where such vacancy is caused by death, resignation or removal from the electoral district, but not otherwise.

Meetings and election of officers.

"(5) Said committee shall meet within fifteen (15) days after the primary election herein provided for, and shall organize by electing a chairman and one (1) or more vice-chairmen, provided that either the chairman or first vice-chairman shall be a woman. They shall also elect a secretary and such other officers as they shall think proper. It shall not be necessary for such officers to be precinct committeemen or committeewomen. They may select managing or executive committees and authorize such subcommittees to exercise any and all powers conferred upon the county, city, state and congressional central committees respectively by this law. The chairman of the county central committee shall call said central committee meeting and not less than ten (10) days before the date of said central committee meeting shall publish said call in a newspaper published at the county seat and

Publication of call.

shall mail a copy of the call, enclosing a blank proxy, to each precinct committeeman. No proxy shall be recognized unless held by an elector of the precinct of the committeeman executing the same.

County convention.

"(6) The county chairman of the party shall preside at the county convention. No person other than a duly elected or appointed committeeman, committeewoman, or officer of the committee shall be entitled to participate in the proceedings of the committee. No proxy shall be recognized unless held by an elector of the precinct of the committeeman or committeewoman executing the same. In case of the absence of any committeeman or committeewoman and his or her duly appointed proxy, the convention may fill the vacancy by appointing some qualified elector of the party, resident in the precinct, to represent such precinct in the convention.

Convention to elect delegates to state convention.

"(7) The county convention shall elect delegates and alternate delegates to attend the state convention provided for herein, in a number equal to the total number of state senators and state representatives elected from said county to the legislative assembly. The chairman and secretary of the county convention shall issue and sign certificates of election of said delegates."

Approved March 11, 1959.

CHAPTER 220

An Act to Amend Section 11-1202, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 139, of the Montana Session Laws of 1949, Relating to Awarding of Contracts by a City or Town for Work, Supplies or Materials for Which a Sum Must be Paid Exceeding One Thousand Dollars ($1,000.00); Providing That the Advertisement of Such Contract, if by Publication, Shall be Made Once Each Week for Two Consecutive Weeks and the Second Publication Shall Be Made Not Less Than Five (5) Days Nor More Than Twelve (12) Days Before the Consideration of Bids; and Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-1202, Revised Codes of

Montana, 1947, as amended by section 1, chapter 139 of the Montana Session Laws of 1949, be, and the same is hereby amended to read as follows:

Contracts of cities or towns in excess of $1,000 must be let to lowest bidder after advertisement.

"11-1202. (5070) **Awarding contracts — Advertisement — Limitations — Installments — Sales of supplies —Purchases from government agencies — Exemptions.** All contracts for work, or for supplies, or for material, for which must be paid a sum exceeding one thousand dollars ($1,000.00), must be let to the lowest responsible bidder after advertisement for bids; provided that no contract shall be let extending over a period of three (3) years or more without first submitting the question to a vote of the taxpaying electors of said city or town. Such advertisement shall be made in the official newspaper of the city or town, if there be such official newspaper, and if not it shall be made in a daily newspaper of general circulation published in the city or town, if there be such, otherwise by posting in three (3) of the most public places in the city or town. Such advertisement if by publication in a newspaper shall be made *once each week for two consecutive weeks and the second publication shall be made not less than five (5) days nor more than twelve (12)* days before the consideration of bids. If such advertisement is made by posting, fifteen (15) days must elapse, including the day of posting, between the time of the posting of such advertisement and the day set for considering bids. The council may postpone action as to any such contract until the next regular meeting after bids are received in response to such advertisement, may reject any and all bids and readvertise as herein provided. The provisions of this section as to advertisement for bids shall not apply upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot or insurrection, or any other similar emergency, but in such case the council may proceed in any manner which, in the judgment of three-fourths (¾) of the members of the council present at the meeting, duly recorded in the minutes of the proceedings of the council by aye and nay vote, will best meet the emergency and serve the public interest. Such emergency shall be declared and recorded at length in the minutes of the proceedings of the council at the time the vote thereon is taken and recorded.

Proviso—contract extending over 3 years must be submitted to vote.

Publication.

Posting.

Council may reject any and all bids.

Installment payments on contracts over $1,000.

"When the amount to be paid under any such contract shall exceed one thousand dollars ($1,000.00) the council may provide for the payment of such amount in installments extending over a period of not more than three (3) years; provided that when such amount is extended over a term of two (2) years at least forty per centum (40%) thereof shall be paid the first year and the remainder the second year, and when such amount is extended over a term of three (3) years, at least one-third (1/3) thereof shall be paid each year; provided that at the time of entering into such contract, there shall be an unexpended balance of appropriation in the budget for the then current fiscal year available and sufficient to meet and take care of such portion of the contract price as is payable during the then current fiscal year, and the budget for each following year, in which any portion of such purchase price is to be paid, shall contain an appropriation for the purpose of paying the same.

Sale or trade in of old supplies and equipment.

"Old supplies or equipment may be sold by the city or town to the highest responsible bidder, after calling for bid purchasers as herein set forth for bid sellers, and such city or town may trade in supplies or old equipment on new supplies or equipment at such bid price as will result in the lowest net price.

Purchase without bid to effect savings.

"Also a city or town may, without bid, when there are sufficient funds in the budget for supplies or equipment, purchase such supplies or equipment from government agencies available to cities or towns when the same can be purchased by such city or town at a substantial saving to such city or town.

Professional and technical services excluded.

"All necessary contracts for professional, technical, engineering and legal services are excluded from the provisions of this act."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 221

An Act to Amend Section 32-1123 of the Revised Codes of Montana of 1947, as Amended by Chapter 250 of the Laws of 1955, Relating to Maximum Dimensions, Weights, and Speeds of Motor Vehicles, by Changing the Maximum Speeds of Trucks and by Revising the Maximum Gross Weight Standards for Vehicles, or Combinations of Vehicles, Having a Distance of from Thirty-nine (39) to Fifty-one (51) feet, Inclusive; and Repealing all Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-1123 of the Revised Codes of Montana of 1947, as amended by chapter 250 of the laws of 1955, be, and the same is hereby amended to read as follows:

Required standards of motor vehicles.

"32-1123. **Standards of maximum dimensions, weights, speeds, etc.** The following standards are hereby made applicable to, and shall govern the maximum dimensions, weights and speeds of motor vehicles, and other characteristics and factors thereof, operating over the highways of, and in the State of Montana, to the exclusion of any other standards or any other requirements respecting the subject matter:

Width limited to 90 inches except busses.

Farm implements.

(1) Width—No vehicle, unladen or with load, shall have a total outside width in excess of 96 inches, *except busses which may have a total outside width not to exceed 102 inches, and such bus width shall be allowed only on paved highways 20 feet or more in width; provided, however, that this restriction does not apply to implements of husbandry moved or propelled upon the highway during daylight hours for a distance of not more than fifty (50) miles, if the movement is incidental to the farming operations of the owner of the implement of husbandry; provided, further, that with respect to such implements of husbandry having a width in excess of 12 feet, it shall be preceded and followed by flagmen escorts for the purpose of warning other highway users.*

Height.

(2) Height—No vehicle, unladen or with load, shall exceed a height of 13 feet, 6 inches.

Length.

(3) Length—(a) No single truck, unladen or with

load, shall have an overall length, inclusive of front and rear bumpers, in excess of 35 feet.

Bus length.

(b) No single bus, unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of 40 feet.

Length of combination units.

(c) No combination of *(1)* truck-tractor and semi-trailer, *(2) truck and trailer, or other combination of vehicles, shall consist of more than two units except that, at the discretion of the state highway commission, they may permit combinations of vehicles of not more than three units consisting of (3) tractor-semitrailer-semitrailer converted to full trailer by use of a dolly equipped with fifth wheel which shall be considered a part of the trailer for all purposes and not as a separate unit, or (4) tractor-semitrailer-full trailer, and no such combination of vehicles,* unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of 60 feet, *provided that when the combination consists of more than two (2) units the rear unit of such combination shall be equipped with break-away brakes.*

Towing of vehicles.

(d) *No motor vehicle shall tow more than one motor vehicle and no motor vehicle shall draw more than two motor vehicles attached thereto by the dual saddlemount method, that is by mounting the front wheels of one vehicle on the bed of another leaving the rear wheels only of such vehicle in contact with the roadway, nor shall such combination* have an overall length, inclusive of front and rear bumpers, in excess of 60 feet.

Towing of trailers.

(e) No passenger vehicle or truck of less than two thousand (2000) pounds "manufacturers' rated capacity" shall tow more than one (1) trailer or semitrailer, nor shall such combination have an overall length, inclusive of front and rear bumpers, in excess of 60 feet.

Minimum speed.

(4) Speed—(a) Minimum speed. No motor vehicle shall be unnecessarily driven at such slow speed as to impede or block the normal and reasonable movement of traffic. Exception to this requirement shall be recognized when reduced speed is necessary for safe operation or when a vehicle or combination of vehicles is necessarily or in compliance with law or police direction proceeding at reduced speed.

Truck maximum speed.

(b) Maximum speed. *No person shall operate any truck or truck-tractor, the gross weight of which exceeds eight thousand (8000) pounds, at a speed greater than fifty (50) miles per hour.*

Maximum for solid rubber or cushion tired vehicles.

(c) Vehicles equipped with solid rubber or cushion tires shall be operated at a speed not in excess of 10 miles per hour.

Permissible loads.

(5) Permissible loads—(a) No axle shall carry a load in excess of 18,000 pounds. An axle load shall be defined as the total load transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

Permissible gross weight.

(b) The gross weight of any group of axles of any vehicle or combination of vehicles, when the distance between the first and last axles of any group of axles is 18 feet or less, and the gross weight of any vehicle when the distance between the first and last axles of all the axles of the vehicle is 18 feet or less, shall not exceed that set forth in the following table of weights:

Distance in feet between the first and last axles of any group of axles of any vehicle or combination of vehicles, or between the first and last axles of all of the axles of any vehicle.	Maximum gross weight, in pounds, of any group of axles of any vehicle or combination of vehicles, or of any vehicle.
4	32,000
5	32,000
6	32,200
7	32,900
8	33,600
9	34,300
10	35,000
11	35,700
12	36,400
13	37,100
14	43,200
15	44,000
16	44,800

17	45,600
18	46,400

(c) The gross weight of any vehicle or combination of vehicles, where the distance between the first and last axles of the vehicle or combination of vehicle is more than 18 feet, shall not exceed that set forth in the following table of weights:

Distance in feet between the first and last axles of all of the axles of a vehicle or combination of vehicles.	Maximum gross weight, in pounds, of any vehicle or combination of vehicles.
18	46,400
19	47,200
20	48,000
21	48,800
22	49,600
23	50,400
24	51,200
25	55,250
26	56,100
27	56,950
28	57,800
29	58,650
30	59,500
31	60,350
32	61,200
33	62,050
34	62,900
35	63,750
36	64,600
37	65,450
38	66,300
39	*68,000*
40	*70,000*
41	*72,000*
42	*73,280*
43	*73,280*
44	*73,280*
45	*73,280*
46	*73,280*
47	*73,280*
48	*73,280*

49	*73,280*
50	*73,280*
51	*73,280*
52	73,600
53	74,400
54	75,200
55	76,000
56	76,400
57	76,800

Measurement.

(d) The distance between axles shall be measured to the nearest foot. When a fractional measurement is exactly one-half foot the next larger whole number shall be used.

Weight subject to reduction when necessary.

(e) The maximum axle and axle group loads stated in paragraphs (a), (b) and (c) of clause (5) above are subject to reasonable reduction in the discretion of the state highway commission during periods when road subgrades have been weakened by water saturation or other causes.

Special permit to exceed dimensions and weights.

(f) The operation of vehicles or combinations of vehicles having dimensions or weights in excess of the maximum limits herein recommended shall be permitted only if and when authorized by special permit issued by the state highway commission or its officers, supervisors or agents acting pursuant to duly delegated authority from said commission, including the state highway patrol.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 222

An Act to Provide for the Support of the Government of Montana for the Years 1959 and 1960; Providing a Severability Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following tax levies for state pur-

Tax levies authorized for 1959.

poses are hereby made upon all property in the State of Montana, subject to taxation, for the year 1959, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to-wit:

State general fund.

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary, under the provisions of section 84-713, Revised Codes of Montana, 1947.

University millage fund.

(b) For the university millage fund, to provide funds for the support of the greater university, as provided in referendum measure No. 61 and passed by vote of the people at the general election held November 4, 1958, six (6) mills.

State insane hospital fund.

(c) For the state insane hospital bond interest and sinking fund created under referendum measure No. 50, one half (½) of one (1) mill.

University fund.

(d) For the university of Montana building bond interest and redemption fund created under referendum measure No. 52, one (1) mill.

State hospital for insane fund.

(e) For the Montana state hospital for the insane bond interest and redemption fund created under referendum measure No. 57, one half (½) of one (1) mill.

State training school fund.

(f) For the Montana state training school bond interest and redemption fund created under referendum measure No. 58, one half (½) of one (1) mill.

Tax levies authorized for 1960.

Section 2. The following tax levies for state purposes are hereby made upon all property in the State of Montana, subject to taxation, for the year 1960, as ascertained by taking the percentage of the true and full value provided by law for the purposes of taxation, to-wit:

State general fund.

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary, under the provisions of section 84-713, Revised Codes of Montana, 1947.

University millage fund.

(b) For the university millage fund, to provide funds for the support of the greater university, as provided in referendum measure No. 61 and passed by vote of the people at the general election held November 4, 1958, six (6) mills.

(c) For the state insane hospital bond interest and sinking fund created under referendum measure No. 50, one half (½) of one (1) mill. State insane hospjital fund.

(d) For the university of Montana building bond interest and redemption fund created under referendum measure No. 52, one (1) mill. University fund.

(e) For the Montana state hospital for the insane bond interest and redemption fund created under referendum measure No. 57, one half (½) of one (1) mill. State hospital for insane fund.

(f) For the Montana state training school bond interest and redemption fund created under referendum measure No. 58, one half (½) of one (1) mill. State training school fund.

Section 3. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act. Saving clause.

Section 4. This act shall be in full force and effect from and after its passage and approval. Effective immediately.

Approved March 11, 1959.

CHAPTER 223

An Act to Provide for a System of Dissemination to the Public of Proceedings of the Legislature, Namely Status Sheets, Status of Proceedings, Mimeographed Bills, Printed Bills, and Amendments to Printed Bills; to Provide for a Schedule of Fees to be Paid by Persons Requesting and Receiving Such Items; Excluding Representatives of the Press, Radio, and Television, Elected Officials, State Department Heads and County Clerks and Recorders from the Payment of Fees, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** For the purposes of this act, the following definitions are adopted: Definitions.

"Person."

1. "Person" shall include any person, firm, corporation or association.

"Proceedings of the legislature."

2. "Proceedings of the Legislature" shall include status sheets, status of proceedings, mimeographed bills, mimeographed resolutions, mimeographed memorials, printed bills, printed resolutions and printed memorials and amendments thereto.

"One complete set."

3. "One Complete Set" shall be one copy of each item of the proceedings of the legislature.

Schedule of fees.

Section 2. **Schedule of fees**: (a) Any person desiring to receive one complete set of the proceedings of the legislature shall pay to the secretary of state one hundred dollars ($100.00). Upon receipt of such money the secretary of state shall transmit the name of said person to the clerk of the house of representatives and the secretary of the senate, who shall supply such person with a complete set of the proceedings of the legislature. Any person desiring to receive more than one set of the proceedings of the legislature shall pay one hundred dollars ($100.00) for each additional set.

(b) Any person desiring to receive single copies of mimeographed bills, mimeographed resolutions, mimeographed memorials, printed bills, printed resolutions, printed memorials or amendments thereto shall pay to the clerk of the house of representatives or the secretary of the senate twenty-five (25¢) per single copy.

(c) Any person desiring to receive single copies of status sheets or status of proceedings shall first pay to the clerk of the house of representatives or the secretary of the senate ten cents (10¢) per single copy.

Payment to secretary of state.

(d) The chief clerk of the house of representatives and the secretary of the senate shall be responsible for accounting for all monies received by them and shall transmit such funds received to the secretary of state before 5 o'clock p. m. each week day. Any monies received by them during Saturday, Sunday or evening sessions of the legislative assembly shall be held by them in a safe place and transmitted to the secretary of state upon the next business day.

(e) The secretary of state shall account for all funds collected under this act and transmit such funds to the treasurer of the State of Montana, who shall credit them to the general fund. Credited to general fund.

Section 3. **Exclusions**: Representatives of the press, radio, and television who shall have first registered with the secretary of state shall be exempt from the provisions of section two of this act and shall receive one complete set of the proceedings of the legislature without charge. Exclusions.

Section 4. All elected state officials, state department heads and county clerks and recorders shall be exempted from the provisions of section two of this act. Exemptions.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 11, 1959.

CHAPTER 224

An Act to Amend Section 32-2134 of the Revised Codes of Montana, 1947, as Amended, Providing the Highway Commission to Sign All State Highway; Providing That the Commission Only Shall Sign Controlled Access Highways or Controlled Access Facilities; Providing That the Commission Shall Adopt and Publish Rules and Regulations Regarding the Erection, Placement and Maintenance of Signs for Traffic Control Devices; Providing That Every Unauthorized Sign or Traffic Control Device Encroaching Into the Right-of-Way of a State Highway, or Controlled Access Highway is a Public Nuisance; Providing Removal of an Encroaching Sign; Providing a Penalty; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 32-2134 of the Revised Codes of Montana, 1947, as amended, be, and the same is hereby amended to read as follows: Amending clause.

''**State highway commission to sign all state highways.**

State highway commission to place traffic control devices on state highways.

(a) The state highway commission shall place and maintain such traffic control devices, conforming to its manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this act or to regulate, warn, or guide traffic.

Permission to local authorities.

(b) No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the state highway commission except by the latter's permission.

Devices on controlled access highways exclusive.

Misdemeanor.

(c) *The commission only shall erect, place and maintain such traffic control devices conforming to its manual and specifications upon any controlled access highway or controlled access facility. The erection of any sign, marker, or emblem upon a controlled access facility or controlled access highway by any other public authority, or agent, or by any private individual, firm or corporation is forbidden and is hereby declared to be a misdemeanor and punished as provided in section "E."*

Devices on highways other than controlled access.

(d) *The erection, placement, or maintenance of any sign, marker, emblem or traffic control device upon any state highway except a controlled access highway or controlled access facility, shall be subject to the rules, regulations and specifications as the commission shall adopt and publish in the interest of public safety and convenience.*

Misdemeanor.

(e) *The erection of any sign, emblem, marker or traffic control device in violation of this section shall be a misdemeanor and upon conviction, punishable by a fine of not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300.00).*

Unauthorized devices declared public nuisance.

(f) *Every such unauthorized sign, emblem, marker or traffic control device or portion thereof encroaching into, over, or upon a right-of-way of any state highway, or controlled access highway is hereby declared to be a public nuisance, and the highway commission is hereby empowered to remove the same or cause it to be removed without notice and without liability for such removal."*

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 225

An Act to Amend Section 66-229 of the Replacement Volume of the Revised Codes of the State of Montana, 1947, as Enacted in Section 10, Chapter 111 of the Laws of 1955, Relating to Exemptions from the Auctioneers and Auction Sales Act, to Provide for the Exemption of Individuals Maintaining an Established Retail Sales Place of Business and Inventory of Goods in the County in Which the Sale is to be Held; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-229 of the Revised Codes of Montana, 1947, as enacted in section 10, chapter 111 of the laws of 1955, be, and the same is hereby amended to read as follows:

Exempting certain classes of sales from provisions of auction sales act.

"66-229. **Exemptions from act.** The provisions of this act shall not extend to the sale at public auction of livestock, farm machinery or farm produce or other items commonly sold at farm sales, or to auction sales by individuals of new merchandise, *who maintain an established retail sales place of business and inventory of goods in the county in which the sale is to be held,* and to auction sales under the direction of any court or court officers as may be required by law nor shall it apply to sales made to dealers by commercial travelers or selling agents in the usual course or business, nor to a bona fide sale of goods, wares and merchandise by sample for future delivery, or by sales made by sheriffs, constables or other public officers selling goods, wares and merchandise according to law, nor to bona fide assignees or receivers appointed in this state selling goods, wares and merchandise for the benefit of creditors.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 226

An Act to Amend Section 53-623, Revised Codes of Mon-

tana, 1947, Relating to Violation of Act Which Regulates Additional Fees on Vehicles—Penalty—Excess Weight—Unloading or Payment of Deficiency; Providing That the Gross Laden Weight of a Vehicle Shall Not Exceed the Gross Weight Marked Upon the Vehicle or Exceed the Gross Weight Shown on the Owner's Certificate of Registration and Tax Receipt Pursuant to Section 53-107, Revised Codes of Montana, 1947, as Amended, or as is Shown on the Gross Vehicle Weight Receipt Pursuant to Section 53-620, Revised Codes of Montana, 1947; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 53-623, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Penalty for violation of gross vehicle weight regulations.

"53-623. **Violation of act—Penalty—Excess weight—Unloading or pay*ing* of deficiency.** Any owner or operator of a truck, trailer or semitrailer, bus, or automobile who violates any provision of this act shall upon conviction thereof be deemed guilty of a misdemeanor and punished by a fine of not more than three hundred dollars ($300.00) or by a sentence of not more than sixty (60) days in the county jail or both. Whenever the gross laden weight of any truck, trailer or semitrailer operated upon any highway in *this* state exceeds the gross maximum weight marked upon such vehicle pursuant to section 53-628 hereof, *or exceeds the gross vehicle weight as is shown on the owner's certificate of registration and tax receipt pursuant to 53-107, Revised Codes of Montana, 1947, as amended, or as is shown on the gross vehicle weight receipt pursuant to section 53-620 hereof,* the operator thereof shall *be subject to the penalties mentioned in this section and shall* be required to forthwith unload all cargo in excess of the gross maximum weight for which such vehicle is taxed; and such excess cargo shall not be reloaded until payment shall have been made to the nearest county treasurer of the amount of the deficiency in the fee provided for in section 53-615 hereof, based upon the gross weight of such vehicle immediately before the unloading of such excess cargo, provided it does not exceed the legal axle weight. *Provided, however, that if the gross maximum weight marked upon such vehicle is less than the gross vehicle weight shown on the owner's registration tax receipt or on the gross vehicle weight receipt, and such receipt shows the gross vehicle weight fee has been paid for the weight stated thereon, there shall be no violation for improper marking."*

Proviso—no penalty for improper marking if proper fee is paid.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 11, 1959.

CHAPTER 227

An Act to Amend Section 69-1807, Revised Codes of Montana, 1947, Relating to Fire Extinguisher Requirements for Buildings Within the Scope of Chapter 18 of Title 69, Revised Codes of Montana, 1947, to Prohibit Use of Fire Extinguishers Containing Toxic or Poisonous Vaporizing Liquids and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 69-1807, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"69-1807. **Fire extinguisher requirements.** All buildings within the scope of this act shall keep on each floor one or more fire extinguishers of a capacity of not less than two and a half (2½) gallons in good working order; provided, that in lieu of said fire extinguishers such buildings may be equipped on each floor with a hose one and one-half inches (1½) in diameter in good condition with nozzle attached connected to standpipe with suitable water supply. Such hose shall be of sufficient length to reach all parts of the floor on which it is situated.

Requiring fire extinguishing equipment on each floor of buildings within scope of act.

"Provided, further, that no fire extinguisher or extinguishers containing any of the following liquids: Carbon tetrachloride (CCl_4)*; Chlorobromomethane* (CH_2BrCl) *Azeotropic chloromethane (CM-7); Bromochlorodifluoro-*

Prohibiting use of toxic material in fire extinguishers after notice.

methane ($CBrClF_2$); Dibromodifluoromethane (CBr_2F_2); 1, 2-Dibromo-2-chloro-1, 1, 2-trifluoroethane ($CbrF_2CBrClf$); 1, 2-Dibromo-2, 2-difluoroethane ($CH_2BrCBrF_2$); Methyl bromide (CH_3Br); Ethylene dibromide (CH_2BrCH_2Br); 1, 2-Dibromotetrafluoroethane ($CBrF_2CBrF_2$); Hydrogen bromide (HBr); Methylene bromide (CH_2Br_2); Bromodifluoromethane ($CHBrF_2$); Bromotrifluoromethane ($CBrF_3$); and Dichlorodifluoromethane (CCl_2F_2), or any other toxic or poisonous vaporizing liquid, shall be kept or maintained in or upon any such building; ninety days (90) after written notice by the state fire marshal or his deputy."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 228

An Act to Amend Section 16-3605 of the Revised Codes of Montana, of 1947, to Authorize the Practice of Law by Justices of the Peace in Certain Instances; Providing for the Repeal of All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-3605, Revised Codes of Montana, 1947, be amended to read as follows:

Justices of the peace not to practice law.

"16-3605. **Justices not to practice law.** No justice of the peace shall practice law, draw contracts, conveyances, or other legal instruments or documents, nor shall they take any claim or bill for collection, nor act as a collection agent in any sense whatever, nor shall they perform any legal duties other than those prescribed by law as their official duties in the conduct of cases and proceedings in their courts. Any justice of the peace violating any of the provisions in this section shall be deemed guilty of a malfeasance in office, and shall forthwith be removed from his office of justice of the peace, and shall thereafter be disqualified from holding such office.

"Provided, however, that a justice of the peace who is an attorney and who is admitted to practice law before the supreme court of the State of Montana may engage in the general practice of law and practice law in all courts in the State of Montana except that such a justice of the peace, his law partner, associate, member, associate or employee of firm of which he is a member shall not represent a party involved in a case filed or tried in his court or in any justice court located in the same township as his court, or which is appealed from said courts."

Exception where justice is an attorney.

Section 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Repealing clause.

Approved March 11, 1959.

CHAPTER 229

An Act to Amend Section 62-102 of the Revised Codes of Montana, 1947, Relating to the Limitation of Expenditure of County Funds for the Purpose of Maintaining County Parks to Provide Authorization to Expend Not to Exceed Five Thousand Dollars ($5,000.00) Per Annum for Maintenance of County Parks; to Provide That There Are No Restrictions on Expenditures for the Purpose of Acquisition and Equipping of County Parks; Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 62-102 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"62-102. (4444.2) **Use of land—Limitation of expenditures.** All tracts of land acquired under this act shall be set aside and used exclusively for public camping and recreational purposes, and each park so established shall be given an appropriate name or number. No county shall be authorized to expend to exceed *five thousand dollars ($5,000.00) per annum* out of the general fund of the county for the purpose of *maintaining* parks as herein provided. *Except as otherwise provided by law, there are no*

Exclusive use of land for public parks.

Limitation on county of $5,000 per annum from general fund for maintenance.

restrictions on expenditures for the purpose of acquiring and equipping county parks."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 230

An Act to Repeal Sections 38-1102, 38-1103, 38-1104, 38-1105, and 38-1107 and Amending Section 38-1106 and 38-1108, of the Revised Codes of Montana, 1947, All Relating to the Procedure for Admittance and Commitment to the Montana Home for Senile Men and Women; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That sections 38-1102, 38-1103, 38-1104, 38-1105, and 38-1107, of the Revised Codes of Montana, 1947, are hereby repealed.

Amending clause.

Section 2. Section 38-1106, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Persons delivered to Montana home for senile under custody of superintendent.

"38-1106. Upon *delivery of any person to the home,* the patient shall be under the care, custody and control of the superintendent until discharged by the superintendent or by a court of competent jurisdiction.

Provisions for costs.

The provisions of the law applicable to the costs of the care and maintenance of persons otherwise committed and confined in the state hospital at Warm Springs shall be applicable likewise to the costs of the care and maintenance of senile persons."

Amending clause.

Section 3. Section 38-1108, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Transfer of patients from state hospital to the home.

"38-1108. **Transfer of patients from state hospital to home.** The superintendent of the hospital at Warm Springs, Montana, is authoried to have examinations of the patients at that institution made by competent doctors for the purpose of ascertaining whether some patients there should be transferred to the home, and if as a result of such examination any persons are found to be senile, the state board of examiners of the State of Montana is authorized to order their transfer from the state hospital at Warm Springs, Montana, to the home."

Section 4. All acts and parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Section 5. This act shall be in full force and effect from and after the date of its passage and approval. **Effective immediately.**

Approved March 11, 1959.

CHAPTER 231

An Act to Amend Section 92-104, Revised Codes of Montana of 1947, as Amended by Chapter 161 of the Laws of Montana, 1953, and Section 92-108, Revised Codes of Montana of 1947, Relating to the Membership of the Industrial Accident Board, the Salaries of the Members of the Board, and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 92-104, (2819), Revised Codes of Montana of 1947, be amended by chapter 161 of the Laws of Montana of 1953, be, and the same is hereby amended to read as follows: **Amending clause.**

Industrial accident board—three members.

"92-104 (2819) **Industrial accident board—Compensation—Terms and salaries.** There is hereby created a board to consist of three (3) members. The commissioner of labor and industry shall be one (1) member, *the director of the bureau of vocational rehabilitation* shall be one (1) member, and one (1) member shall be appointed by the governor, by and with the consent of the senate. The board shall be known as the Industrial Accident Board and shall have the powers, duties, and functions hereinafter conferred. The term of office of the appointed member of the board shall be four (4) years and until his successor shall have been appointed and confirmed. He

Term of office of appointed member.

Salary.

shall receive an annual salary of seven thousand dollars ($7,000.00), payable monthly and shall be chairman of the board. The board shall elect one of their own number as treasurer of the board.

Amending clause.

Section 2. That section 92-108 (2823) Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Ex officio members receive no additional compensation.

"92-108. (2823) **Ex officio members to receive no additional compensation.** Neither the commissioner of labor and industry nor the *director of the bureau of vocational rehabilitation* shall receive any additional compensation for the duties imposed upon them by this act."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 232

An Act to Amend Section 91-4407 of the Revised Codes of Montana, 1947, as Amended by Chapter 5, Session Laws of Montana, 1957, Relating to the Deductions on Inheritance Tax; Providing That Attorneys' Fees, Filing Fees, Necessary Expenses and Closing Costs in Termination of Joint Tenancies and Life Estates and Transfers in Contemplation of Death and All Other Proceedings for the Determination of Inheritance Tax Shall be Deductable; Providing for a Repealing Clause; and Providing for an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 91-4407, Revised Codes of Montana, 1947, as amended by chapter 5, Session Laws of Montana, 1957, be, and the same is hereby amended to read as follows:

Tax on clear market value.

"91-4407. **Tax on clear market value—Deductions.** The tax so imposed shall be upon the clear market value of such property passing by any such transfer to each person, institution, association, corporation or body politic, at the rates hereinafter prescribed and only upon

Upon excess of exemption.

Allowable deductions.

the excess of the exemption hereinafter granted to such person, institution, association, corporation or body politic, and in determining the clear market value of the property so passing by any such transfer the following deductions, and no other shall be allowed; debts of the decedent owing at the date of death, expenses of funeral and last illness, all Montana state, county, municipal and federal taxes, including all penalties and interest thereon, owing by decedent at the date of death, the ordinary expenses of administration, including the commissions and fees of executors and administrators and their attorneys actually allowed and paid, *including attorneys' fees, filing fees, necessary expenses and closing costs incident to proceedings to terminate joint tenancies, termination of life estates and transfers in contemplation of death, and any and all other proceedings instituted for the determination of inheritance tax,* and federal estate taxes due or paid."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1959.

CHAPTER 233

An Act to Amend Section 32-21-122 of the Revised Codes of Montana, 1947, Relating to Additional Equipment on Vehicles; by Requiring Safety Equipment for Logging Vehicles and Prescribing Safety Precautions to be Taken by Operators of Vehicles Hauling Logs Upon the Public Highways of the State of Montana; Specifying the Number of Binders to be Used and Carried on Such Vehicles; Prescribing the Material of Which Binders Shall be Made; Prescribing the Size and Strength of Such Binders; Requiring Binders to be Secured Around Load With the Use of Fasteners; Prescribing Procedure in Tightening Binders With Fasteners to Prevent Slippage or Loosening of Binders; Prescribing Maximum Width Limitations; Prescribing Loading Procedure for Loads Which Extend Upward

Beyond the Bunks or Stakes; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-21-122 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Additional equipment required on certain vehicles.

"Section 119. **Additional equipment required on certain vehicles.** In addition to other equipment required in this act the following vehicles shall be equipped as herein stated under the conditions stated in section 118.

Busses and trucks.

(a) On every bus or truck, whatever its size, there shall be the following:

On the rear, two (2) reflectors, one (1) at each side, and one (1) stop light.

(b) On every bus or truck eighty (80) inches or more in overall width, in addition to the requirements in paragraph (a):

On the front, two (2) clearance lamps, one (1) at each side.

On the rear, two (2) clearance lamps, one (1) at each side.

On each side, two (2) side marker lamps, one (1) at or near the front and one (1) at or near the rear.

On each side, two (2) reflectors, one (1) at or near the front and one (1) at or near the rear.

Truck-tractors.

(c) On every truck-tractor:

On the front, two (2) clearance lamps, one (1) at each side.

On the rear, one (1) stop light.

Trailers and semitrailers.

(d) On every trailer or semitrailer having a gross weight in excess of three thousand (3,000) pounds:

On the front, two (2) clearance lamps, one (1) at each side.

On each side, two (2) side marker lamps, one (1) at or near the front and one (1) at or near the rear.

On each side, two (2) reflectors, one (1) at or near the front and one (1) at or near the rear.

On the rear, two (2) clearance lamps, one (1) at each side, also two (2) reflectors, one (1) at each side, and one (1) stop light.

Pole trailers.

(e) On every pole trailer in excess of three thousand (3,000) pounds gross weight:

On each side, one (1) side marker lamp and one (1) clearance lamp which may be in combination, to show to the front, side, and rear.

On the rear of the pole trailer or load, two (2) reflectors, one (1) at each side.

(f) On every trailer, semitrailer, or pole trailer weighing three thousand (3,000) pounds gross or less:

On the rear, two (2) reflectors, one (1) on each side. If any trailer or semitrailer is so loaded or is of such dimensions as to obscure the stop light on the towing vehicle, then such vehicle shall also be equipped with one (1) stop light.

Logging trucks.

(g) On every truck or truck-trailer combination actively engaged in transporting logs:

(1) Binders on logging vehicles.

(a) At least three (3) binders shall be required as standard equipment on any truck or truck-trailer combination actively engaged in transporting logs upon the public highways of the State of Montana;

(b) Such binders to be of steel chain or steel cable;

(c) The minimum diameter of any portion of such binders shall be three-eights (3/8) of one inch;

(d) Such binders shall be of sufficient length to encompass any load when secured by a fastener.

(2) Use of fasteners to secure binders

(a) Binders used to secure loads of logs together shall be fastened by means of a fastener.

(b) The minimum diameter of the portions of the

fasteners under direct stress from the binder shall be three-eights (3/8) of one inch.

(c) The handle, or leverage portion of the fastener, when in use in tightening and holding the binder, shall be securely fastened to the binder or to the fastener in such a way that it cannot be accidentally loosened.

(3) Number and location of binders

At least two (2) binders shall be in use on all loads. Such binders shall be placed as close as reasonably possible to the front and rear bunks.

(4) Securing short loads

In the event short logs are loaded on top of longer logs, sufficient binders shall be used to secure both ends of such short logs to the main body of the load.

(5) Procedure for loading—width limits

(a) The maximum width of any vehicle, unladen or with load, shall not exceed a width of ninety-six (96) inches, unless permits for excess width have been granted by virtue of section 32-1127, Revised Codes of Montana, 1947, as amended.

(b) No logs may extend laterally beyond the stakes which form the outer boundary of the load at the top of such stakes. Logs or poles loaded above the tops of the stakes shall be loaded in a pyramidal fashion.

Power of board to make additional safety rules.

(h) The board is hereby empowered to make additional rules and regulations governing the use of safety equipment on motor vehicles, vehicles and/or combination of vehicles, that is, trailer hitches, safety chains, mounts, tow bars and other similar equipment as it shall deem advisable for the protection of the public; provided further that any violation of any rules and regulations adopted by the board shall be deemed a misdemeanor."

Misdemeanor.

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 234

An Act to Amend Section 60-144, Revised Codes of Mon-

tana, 1947, as Amended, Relating to the Furnishing of Cores and Cuttings from Oil and Gas Wells by the Owners Thereof to the Oil and Gas Conservation Commission of the State of Montana; Deleting All References in Said Section to the Bureau of Mines and Geology of the State of Montana and Substituting the Commission Therefor; Providing the Commission May Relieve Owners of the Obligation to Furnish Cores and Cuttings When Unduly Burdensome or Oppressive; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 60-144, Revised Codes of Montana, 1947, as amended by section 1, chapter 224, Laws of 1955, be, and the same is amended to read as follows:

Owners drilling for gas or oil to provide cores or chips.

''60-144. **Owners shall make available to commission cores and cuttings.** Any owner drilling a well for gas or oil shall make available to the commission *at its field offices representative* cores *or chips,* when available, and the cuttings from such well. Providing, however, that cores, *chips* or cuttings need not be *so made* available for a period of six (6) months following completion or abandonment of such wells. *As pertains to the furnishing of cores, cuttings, or chips, the commission may, however, relieve the owner of any well of the obligation to furnish the same when in the opinion of the commission, the furnishing thereof would be unduly burdensome for such owner; provided, however, that such owner desiring relief must apply to and receive permission from the commission to not so furnish.* The owner of any stratigraphic test well drilled for the purpose of obtaining lithologic information useful in potential oil and gas operations, as such well is defined by the commission's rules and regulations, shall within six (6) months from the date of the cessation of the drilling of such well, make available to *the commission,* complete sets of sample cuttings and representative cores or chips and well logs of such wells, which logs shall include among other information the size of casing used and the type and depth of water if any located, and such cuttings, cores, chips and logs shall be impounded and kept secure and confidential by *the commission until such*

Commission may relieve owner.

Duty of owner of abandoned test well to supply commission with cores, chips and log.

Impoundment.

time that the commission shall desire to use the same; provided that the commission may not *use* such logs, chips, cores and cuttings from stratigraphic test wells until a period of three (3) years from the date of their impounding by *the commission* has elapsed unless the owner of such stratigraphic test well consents to their use by the commission prior to the expiration of the three (3) year period. The *commission,* during the period of impoundment for any cores, cuttings, chips *or* logs from any stratigraphic test well, shall not give any person access to said cores, chips, cuttings or logs, and *it* shall not disclose any information relating thereto or derived therefrom. The commission shall require, and the owner of any stratigraphic test well shall furnish, prior to the commencement of drilling of such well, a good and sufficient surety bond, to be approved prior to the commencement of such drilling, conditioned upon the proper plugging of such well prior to abandonment, the amount of the said bond to be determined by the estimated depth as in the commission's rules and regulations provided for oil and gas wells, and, prior to abandonment, such wells shall be plugged by the owner thereof, or by the surety should the said owner be in default, such plugging to conform to the standards set down and determined by the commission. The provisions of this section shall not apply to core holes or tests less than one thousand (1,000) feet in depth drilled primarily for structural information."

Not to be used without consent of owner.

Duty of commission not to disclose.

Surety bond prior to drilling.

Plugging of abandoned wells.

Repealing clause. Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 235

An Act to Amend Section 75-2701, Revised Codes of Montana, 1947, Relating to Earnable Compensation and Average Final Compensation of the Teachers' Retirement System, State of Montana, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That section 75-2701, Revised Codes of

Montana, 1947, be, and the same is hereby amended to read as follows:

''Section 75-2701. **Definitions.** The following words and phrases used in this act shall have the following meanings unless a different meaning is plainly required by the content:

Definitions.

(1) 'Retirement system' shall mean the teachers' retirement system of the State of Montana provided for in section 75-2702.

"Retirement system."

(2) 'Retirement board' shall mean the retirement board provided by section 75-2703 to administer the retirement system.

"Retirement board."

(3) 'Employer' shall mean the State of Montana or the board of trustees of any school district employing teachers subject to the provisions of this act; or other agency of and within the state by which the teacher is paid.

"Employer."

(4) 'Teacher' shall mean any teacher in the public elementary and high schools of the state, and the university of Montana, as constituted in accordance with section 75-401, including all kindergarten teachers in the public schools, and shall include any school librarian or physical training teacher, principal, vice-principal, supervisor, superintendent, county superintendent of schools, and any other member of the teaching or professional staff of any public elementary or high school of this state, and any administrative officer or member of the instructional or scientific staff of the university of Montana; provided that no person shall be deemed a teacher within the meaning of this act who is not so employed for full time outside vacation periods. The word 'teacher' shall also include any person employed in the office of or by the superintendent of public instruction in the performance of duties pertaining to instructional services. In all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this act.

"Teacher."

(5) 'Member' shall mean any person included in the membership of the system as provided in section 75-2704.

"Member."

(6) 'Service' shall mean service as a teacher as de-

"Service."

scribed in subsection (4) of this section and paid for by an employer as described in subsection (3) of this section.

"Prior service."

(7) 'Prior service' shall mean service as 'teacher' or in a similar capacity outside of the state, rendered prior to the date of establishment of the system, and in case of teachers in the university of Montana rendered prior to September 1, 1939, for which credit is allowable as provided in section 75-2705; provided, further, that any teacher, mustered into or serving in the military forces of the United States government during the period of war, shall receive 'prior service credit' for such period of service.

"Membership service."

(8) 'Membership service' shall mean service as a teacher rendered while a member of the retirement system.

"Creditable service."

(9) 'Creditable service' shall mean prior service plus membership as provided in section 75-2705.

"Beneficiary."

(10) 'Beneficiary' shall mean any person in receipt of a pension, annuity, a retirement allowance, or other benefit as provided by this act.

"Regular interest."

(11) 'Regular interest' shall mean interest at four per centum per annum compounded annually, or at such other rate as may be set by the retirement board in accordance with subsection (2) of section 75-2708.

"Accumulated contributions."

(12) 'Accumulated contributions' shall mean the sum of all the amounts deducted from the compensation of a member or paid by a member as provided for in section 75-2705 and 75-2709, and credited to his individual account in the annuity savings fund, together with interest. Regular interest shall be computed and allowed to provide a benefit at the time of retirement. Interest at the rate of three-fourths the regular rate shall be computed and credited to the pension accumulation fund when withdrawn for any other purpose subsequent to July 1, 1945.

"Earnable compensation."

(13) ''Earnable compensation'' shall mean the full rate of the compensation, pay or salary that would be payable to a teacher if he worked the full normal working time except that any compensation in excess of *six thousand dollars ($6,000)* per annum, shall not be used for the

purpose of this system provided that any teacher who received a salary or compensation in excess of *five thousand dollars ($5,000)* per annum subsequent to *July 1, 1957,* may use such salary or that portion of it not in excess of *six thousand dollars ($6,000)* as a basis of compensation for the purpose of this system if (a) he contributes five per cent (5%) of the excess of such salary subsequent to *July 1, 1957,* over *five thousand dollars ($5,000)* and not exceeding *six thousand dollars ($6,000)* to his individual account in the annuity savings fund and (b) he contributes three and one-half per cent (3½%) of the excess of his salary subsequent to *July 1, 1957* over *five thousand dollars ($5,000)* and less than *six thousand dollars ($6,000)* to the pension accumulation fund. In cases where compensation includes maintenance, the retirement board shall fix the value of that part of the compensation not paid in money.

"Average final compensation."

(14) 'Average final compensation' shall mean the average annual compensation, pay or salary on which the five per cent (5%) contribution has been made by a member during any *three (3)* consecutive years as a teacher.

"Medical board."

(15) 'Medical board' shall mean the board of physicians provided for in section 75-2703.

"Annuity."

(16) 'Annuity' shall mean payments for life derived from the accumulated contributions of a member as provided in this act. All annuities shall be paid in equal monthly installments.

"Pension."

(17) 'Pension' shall mean payments for life derived from money provided by the employer as defined in this act. All pensions shall be paid in equal monthly installments.

"Retirement allowance."

(18) 'Retirement allowance' shall mean the annuity plus the pension.

"Annuity reserve."

(19) 'Annuity reserve' shall mean the present value of all payments to be made on account of a member's annuity granted under the provisions of this act, computed upon the basis of such mortality tables as shall be adopted by the retirement board and regular interest.

"Pension reserve."

(20) 'Pension reserve' shall mean the present value of all payments to be made on account of a pension granted under the provisions of this act, computed on the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

"Actuarial equivalent."

(21) 'Actuarial equivalent' shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the retirement board and regular interest.

"Former retirement system."

(22) 'Former retirement system' shall mean the retirement system established under sections 1113 to 1132 inclusive, of the Revised Codes of Montana, 1935."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 236

An Act Adopting the Western Interstate Corrections Compact for the Development and Execution of a Program for the Reciprocal Confinement, Treatment and Rehabilitation of Certain Classes of Convicted Felons in Institutions of Participating States; Directing Cooperation of State Agencies in the Program; Authorizing the Holding of Hearings Requested by Agencies of Participating States; Empowering the Governor to Enter Into Contracts Under the Compact with the Approval of the Board of Examiners; and Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Enacting clause.

Section 1. The western interstate corrections compact as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

1. **Purpose and policy.** The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the

confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders.

Purpose and policy of western interstate corrections compact to provide cooperative facilities for confinement of offenders.

2. **Definitions.** As used in this compact, unless the context clearly requires otherwise:

Definitions.

(a) "State" means a state of the United States, the Territory of Hawaii, or subject to the limitation contained in article VII, Guam.

"State."

(b) "Sending state" means a state party to this compact in which conviction was had.

"Sending state."

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had.

"Receiving state."

(d) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.

"Inmate."

(e) "Institution" means any prison, reformatory or other correctional facility (including but not limited to a facility for the mentally ill or mentally defective) in which inmates may lawfully be confined.

"Institution."

3. Contracts.

Contracts with sending state for confinement in receiving state.

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

Duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

Payments.

Inmate Employment.

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

Delivery of inmates.

4. Delivery and retaking of inmates.

General provisions.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

Contracts to participate in building of inmate facilities.

(b) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that monies are legally available therefor, pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

Terms of compact as part of contract.

(c) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

Procedures and rights.

4. Procedures and rights.

(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

Access of officials for purposes of inspection.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

Inmates confined in receiving state subject to jurisdiction of sending state.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of article III.

Receiving state to provide reports.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have the benefit of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

Inmates to be treated humanely.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

Legal rights retained.

Hearings.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this subdivision shall be borne by the sending state.

Release.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

Right to any benefits.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

Rights of parent, guardian, trustee, etc.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

Acts not reviewable in receiving state.

5. Acts not reviewable in receiving state; extradition.

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

Extradition.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

Federal aid.

6. Federal aid. Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

Entry of act into force.

7. Entry into force. This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon and Washington; and to Guam. Thereafter, this compact shall

enter into force and become effective and binding as to any other of said states, or any other state contiguous to at least one party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon and Washington.

Withdrawal and termination.

8. Withdrawal and termination. This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

Other arrangements unaffected.

9. Other arrangements unaffected. Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a non-party state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

Provisions liberally construed and severable—saving clause.

10. Construction and severability. The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as

to the remaining states and in full force and effect as to the state affected as to all severable matters.

Authority to transfer inmates.

Section 2. Any court or the board of prison commissioners having power to commit or transfer an inmate (as defined in article II (d) of the western interstate corrections compact) to any institution for confinement may commit or transfer such inmate to any institution outside this state if this state has entered into a contract or contracts for the confinement of inmates in said institution pursuant to article III of the western interstate corrections compact.

Enforcement.

Section 3. The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions including but not limited to the making and submission of such reports as are required by the compact.

Duty to hold hearings.

Section 4. The board of pardons and paroles and the board of prison commissioners are hereby authorized and directed to hold such hearings as may be requested by any other party state pursuant to article IV (f) of the western interstate corrections compact.

Power of governor to contract.

Section 5. The governor is hereby empowered to enter into such contracts on behalf of this state as may be appropriate to implement the participation of this state in the western interstate corrections compact pursuant to article III thereof. No such contract shall be of any force or effect until approved by the board of examiners.

Saving clause.

Section 6. The provisions of this act shall be severable and if any phrase, clause, sentence, or provision of this act is declared to be unconstitutional or the applicability thereof to any state, agency, person or circumstance is held invalid, the constitutionality of this act and the applicability thereof to any other state, agency, person or circumstance shall, with respect to all severable matters, not be affected thereby.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 8. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1959.

CHAPTER 237

An Act to Amend Section 32-1014, Revised Codes of Montana, 1947; Providing That It Shall Be Unlawful to Dump Garbage Upon or Near a Highway, Street or Alley and Public Recreational Property; Providing a Penalty for Violation Thereof; Providing for Enforcement by Sheriffs, Policemen, Highway Patrol, Game Wardens and Other Enforcement Agencies of the State; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-1014, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Unlawful to dump garbage on highways and recreational property.

''32-1014. **Dumping garbage** *or other debris or refuse* **upon or near highway or** *public recreational property.* It shall be unlawful for any person or persons to dump or leave any garbage, dead animal *or other debris or refuse* in or upon any public highway, road, *street* or alley of this state, or *in or upon any public recreational property, highway, street, or alley under the control of the State of Montana or any political subdivision thereof, or any officer or agent or department thereof,* or within two hundred yards of such public highway, road, *street,* or alley *or public recreational property.* Any person found guilty of a violation of this section shall be fined in the sum not exceeding twenty-five dollars, or imprisoned in the county jail for a period not exceeding thirty days, or be punished by both such fine and imprisonment, in the discretion of the court. *The provisions of this section shall be enforced by all highway patrolmen, sheriffs, policemen, and all other enforcement agencies and officers of the State of Montana: provided, however, that game wardens shall have*

Penalty.

Enforcement.

the right to enforce the provisions of this section in public recreational property.''

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Approved March 11, 1959.

CHAPTER 238

An Act to Amend Section 11-403, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 239, Montana Session Laws of 1957, Relating to Extension of Boundaries to Include Contiguous Platted Tracts or Other Parcels of Land by Cities of the First Class; to Provide for the Annexation of Platted or Unplatted Tracts or Parcels of Land Wholly Surrounded by Cities of the First Class, and Providing the Procedure Therefore; Containing a Repealing Clause; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 11-403 of the Revised Codes of Montana, 1947, as amended by Section 1, Chapter 239. Montana Session Laws of 1957, be, and the same is hereby amended to read as follows: **Amending clause.**

''11-403. **Extension of boundaries to include contiguous platted tracts or other parcels of land.** (1) Cities or towns of the first class. Any tracts or parcels of land, which have been or may hereafter be platted into lots or blocks, streets, and alleys, and the map or plat thereof filed in the office of the county clerk and recorder of the county in which the same are situated, or any unplatted land that has been surveyed and for which a certificate of survey has been filed, as provided in these codes, and which platted or unplatted land shall be contiguous to any incorporated city of the first class, may be embraced within the corporate limits thereof, and the boundaries of such city of the first class extended so as to include the same in the following manner: When, in the judgment of any city council of a city of the first class, expressed by resolution duly and regularly passed and **Procedure for annexation by cities or towns of first class.** **When.**

adopted, it will be to the best interest of such city and the inhabitants of any contiguous platted tracts or parcels of land, or unplatted land for which a certificate of survey has been filed, that the boundaries of such city shall be extended, so as to include the same within the corporate limits thereof, the city clerk of such city shall forthwith cause to be published in the newspaper published nearest such platted tracts or parcels of land, or unplatted land for which a certificate of survey has been filed, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed, and that for a period of twenty days after the first publication of such notice, such city clerk will receive expressions of approval or disapproval, in writing, of the proposed extensions of the boundaries of such city of the first class, from resident freeholders of the territory proposed to be embraced therein. The clerk shall, at the next regular meeting of the city council of such city of the first class after the expiration of said twenty days, lay before the same all communications in writing by him so received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city of the first class shall be extended so as to embrace and include such platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed, the time when the same shall go into effect to be fixed by such resolution; provided, that such resolution shall not be adopted by such council if disapproved, in writing, by a majority of the resident freeholders, if any, of the territory proposed to be embraced.

Publication of notice.

Resolution.

Disapproval by majority of resident freeholders.

"*Provided also, that cities of the first class may include as part of such city any platted or unplatted tract or parcel of land that is wholly surrounded by such city upon passing a resolution advertising and upon passing a further resolution or following such advertising, all in the manner aforesaid, and such land shall be annexed, if so resolved, whether or not a majority of the resident freeholders, if any, of the land to be annexed object; provided, however, that land used for agricultural, mining, smelting, refining, transportation, recreational area, or any industrial or manufacturing purpose or for the purpose of*

Land surrounded by cities of first class.

Exceptions.

maintaining or operating a golf or country club, an athletic field or aircraft landing field, a cemetery or a place for public or private outdoor entertainment or any purpose incident thereto, shall not be annexed under this provision.

Annexation by cities and towns of second and third class.

(2) Cities and towns of the second and third class. Any tracts or parcels of land, which shall be contiguous to any incorporated cities or towns of the second and third class, may be embraced within the corporate limits thereof and the boundaries of such cities or towns of the second and third class extended so as to include the same in the following manner: When, in the judgment of any such city or town council, expressed by resolution duly and regularly passed and adopted, it will be to the best interest of such city, or town and the inhabitants thereof, and of the inhabitants of any contiguous tracts or parcels of land, as aforesaid, that the boundaries of such city or town shall be extended, so as to include the same within the corporate limits thereof, the city or town clerk of such city or town shall forthwith notify in writing all property holders within the boundaries of the territory proposed to be embraced, and cause to be published in the newspaper published nearest such tracts or parcels of land, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed and that for a period of twenty days after the first publication of such notice, such city or town clerk will receive expressions of approval or disapproval, in writing, of the proposed extensions of the boundaries of such city or town, from freeholders of the territory proposed to be embraced therein. The clerk shall, at the next regular meeting of the city or town council after the expiration of said twenty days, lay before the same all communications in writing by him so received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city or town of the second or third class, shall be extended so as to embrace and include such tracts or parcels of land, the time when the same shall go into effect to be fixed by such resolution; provided, that such resolution shall not be adopted by such council, if disapproved, in writing, by a majority of the freeholders of the territory proposed to be embraced.

Resolution.

Publication of notice.

Disapproval by majority of resident freeholders.

Two or more adjacent tracts.

(3) Whenever two or more adjacent tracts taken as a whole shall adjoin the city, they may be included in one resolution under subdivision (2) hereof, although one or more of said tracts taken alone may not be adjacent to the corporate limits as then existing."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1959.

CHAPTER 239

An Act to Amend Section 75-2709 of the Revised Codes of Montana, 1947, Relating to the Method of Financing the Teachers' Retirement System of the State of Montana; to Provide for an Increase in the Employers' Contribution to the Pension Accumulation Fund for a Period of Six (6) Years; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-2709 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Method of financing teachers' retirement system.

"Section 75-2709. **Method of financing.** There are hereby created and established an 'annuity savings fund' and 'annuity reserve fund', a 'pension accumulation fund', a 'pension reserve fund' and an 'expense fund', into which funds all of the assets of the retirement system shall be credited according to the purpose for which they are held as hereinafter prescribed.

Annuity savings fund.

"(1) Annuity savings fund. The annuity savings fund shall be a fund in which shall be accumulated the contributions from the compensation of members to provide for their annuities. Contributions to and payments from the annuity savings fund shall be made in the following manner:

Payroll ductions.

"(a) Each employer shall deduct from the compensation of each member on each and every payroll of such member for each and every payroll period subsequent to the date on which such member became a member an amount equal to five per centum (5%) of such member's earnable compensation, but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty and rendered thirty-five years of creditable service if such a member elects not to contribute.

Computation.

"(b) In determining the amount earnable by a member in a payroll period, the retirement board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth (1/10) of one per centum (1%) of the annual compensation upon the basis of which said deduction is to be made.

Member deemed to consent.

"(c) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt in full for his salary or compensation; and payment of salary or compensation less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by this act.

No deduction for state's default.

"(d) Notwithstanding the preceding provision, no deduction shall be made from any member's salary on account of which the state's contributions on his account are in default.

Deposits by members.

"(e) In addition to the contributions deducted from compensation as hereinbefore provided, subject to the approval of the retirement board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the total amount which he previously withdrew therefrom as provided in this act, or any part thereof; or any member may deposit therein by a single payment or by an increased rate of contribution amounts for the purchase of an additional annuity, but such additional payments shall not exceed the amounts computed to provide with his prospective retirement allowance a total retirement allowance of one-half of his average final compensation at the minimum age at which the member will become eligible for superannuation retirement. Such additional amounts so deposited shall become a part of his accumulated contributions, except in the case of disability retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his pension. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death as provided in this act, shall be paid from the annuity savings fund, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the expense fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

Annuity reserve fund.

"(2) Annuity reserve fund. The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities, payable as provided in this act. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

Pension accumulation fund.

"(3) Pension accumulation fund. The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

Computation of payments by employer.

"(a) Each and every employer shall pay into the pension accumulation fund an amount equal to *three and seventy-five one hundredths per centum (3.75%)* of the earnable compensation of each member employed during the whole or such part of the preceding payroll period as such member was so employed by such employer; provided, however, that no payments shall be made into said pension accumulation fund until after July 1, 1945. Provided, further, until such time as the legislative assembly shall provide adequate funds for the establishment of such reserves as are set up in this act, such parts of such act as deal with reserves to be built up by contributions from the state shall be inoperative. *Provided further, that for each payroll period after July 1, 1965, the employers' contribution shall be three and fifty, one hundredths per centum (3.50%).*

Board of trustees to appropriate payments.

"(b) The board of trustees of every school district maintaining an elementary school, or schools, the board of trustees of every school district maintaining a high school, and the board of trustees of every county high school shall, in the respective budgets for such schools, make and provide an appropriation for such payments to the pension accumulation fund.

No special levy when funds are adequate for elementary school budget and pension fund payment.

"(c) When the total amount required for the elementary school budget of any district, including the amount to be paid into the pension accumulation fund will not require a levy against the property in the district in excess of ten (10) mills, no special or additional levy shall be made but the whole amount shall be paid out of the receipts from the levy authorized by section *75-3706*, Revised Codes of Montana, *1947*, as amended.

Special levy made when funds are inadequate.

"(d) When the total amount required for the elementary school budget for any district, including the amount to be paid into the pension accumulation fund, will require a levy more than ten (10) mills, a special levy against the taxable propery in the district must be made in such number of mills as will raise the total amount for the payment to the pension accumulation fund, without being authorized at any election.

Special levy for pension fund payments by high schools.

"(e) The total amount to be paid by each high school within each county to the pension accumulation fund shall be raised by a county-wide tax levy, and the county commissioners, except as hereinafter provided, shall make a county-wide levy of such number of mills as will raise such total amount; provided that the amount budgeted for payment to the pension accumulation fund in any high school budget shall not be deemed or considered as a part of or as included within the maximums for high school budgets as fixed and determined by section 75-4505, *Revised Codes of Montana, 1947, as amended,* and the county-wide high school levy herein provided for shall not be deemed or construed as a part of the county-wide high school levy authorized by section *75-1723,* Revised Codes of Montana, *1947,* as amended, unless the trustees making such budget so desire and the board of county commissioners find that such levy is not required to raise the amount necessary for such budget for all purposes including the payment to the pension accumulation fund.

Appropriations by legislature to provide pension fund payments on behalf of member state employees.

"(f) The legislative assembly shall, in its appropriation for the maintenance and operation of the office of the state superintendent of public instruction, the state orphans home, the Montana state training school, the Montana state deaf and blind school, the state vocational school for girls, and the Montana state industrial school, include and provide appropriations in such an amount as will be sufficient to make such payments into such pension accumulation fund as may be required by reason and on account of such state superintendent of public instruction and such employees of such office and institutions as may be members.

Appropriations for member university employees.

"(g) The legislative assembly shall, in its appropriations for the maintenance and operation of the University of Montana, and its several departments and schools, include and provide appropriations in such an amount as will be sufficient to make such payments into the pension accumulation fund as may be required by reason or on account of such teachers of such university, and its several schools and departments, as may be members; provided that all such appropriations shall be made from the university millage fund or appropriations made by the legislature.

"(h) The board of county commissioners of each county shall, in the budget covering appropriations for the maintenance and operation of the office of county superintendent of schools, include and provide such an amount as will be sufficient to make such payments into such pension accumulation fund as may be required by reason and on account of such county superintendent and such other employees of such office as may be members.

Appropriations by board of county commissioners on behalf of county superintendent and employees.

"(i) On the basis of regular interest and of such mortality and other tables as shall be adopted by the retirement board, the actuary engaged by the retirement board to make each valuation required by this act during the period over which the deficiency contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of the average new entrant, which if contributed on the basis of the compensation of such member throughout his entire period of active service, would be sufficient to provide for the payment of any pension payable by the state on his account. The rate per centum so determined shall be known as the 'normal contribution' rate. After the deficiency contribution has ceased to be payable, the normal contribution rate shall be the rate per centum of the earnable salary of all members obtained by deducting from the total liabilities of the pension accumulation fund the amount of the funds in hand to the credit of that fund and dividing the remainder by one per centum (1%) of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the retirement board and on the basis of regular interest. The normal rate of contribution shall be determined by the actuary after each valuation.

Actuary to determine normal contribution rate.

"(j) Immediately succeeding the first valuation the actuary engaged by the retirement board shall compute the rate per centum of the total annual compensation of all members which is equivalent to four per centum (4%) of the amount of the total pension liability on account of all members and beneficiaries not dischargeable by the present assets of the pension accumulation fund and the aforesaid normal contribution if made on account of such members during the remainder of their active service. The rate per centum, originally so determined,

Actuary to determine deficiency contribution.

shall be known as the 'deficiency contribution.' Provided such rates shall not go into effect until the year 1939-40.

Computation.

"(k) The total amount payable annually by the state of Montana into the pension accumulation fund shall be not less than the sum of the rates per centum known as the normal contribution rate and the deficiency contribution rate of the total compensation earnable by all members during the preceding school year, provided, however, that the amount of each annual deficiency contribution shall be at least three per centum (3%) greater than the preceding annual deficiency payment, and that the aggregate payment into the pension accumulation fund shall be sufficient, when combined with the amount in the pension accumulation fund, to provide the pensions payable out of the fund during the current year.

Defiency contribution discontinued.

"(l) The deficiency contribution shall be discontinued as soon as the accumulated reserve in the pension accumulation fund shall equal the present value, as actuarially computed and approved by the retirement board, of the total liability of such fund less the present value, computed on the basis of the normal contributions to be received on account of teachers who are at that time members.

Interest and dividends.

"(m) All interest and dividends earned on the funds of the retirement system shall be credited to the pension accumulation fund and the amounts required to allow regular interest on the annuity savings fund, the annuity reserve fund and the pension reserve fund shall be transferred to the respective funds from the pension accumulation fund.

Benefits paid from pension accumulation fund.

"(n) All pensions and benefits in lieu thereof, including pensions payable under section 75-2712, *Revised Codes of Montana, 1947, as amended,* with the exception of those payable to members not entitled to prior service credit shall be paid from the pension accumulation fund.

Transfer of funds accumulated prior to September 1, 1937.

"(o) All moneys and securities to the credit of the public school teachers' retirement salary fund and the public school teachers' permanent fund on the first day of September, nineteen hundred and thirty-seven, shall be paid by the state treasurer into the pension accumulation fund.

Discretion of retirement board to transfer funds.

"(p) The retirement board may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund or the pension reserve fund, as shown by actuarial valuation, and also such expenses as hereinafter provided.

Transfer on retirement.

"(q) Upon the retirement of a new entrant, an amount equal to his pension reserve shall be transferred from the pension accumulation fund to the pension reserve fund.

Pension reserve fund.

"(4) Pension reserve fund. The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members not entitled to prior service credit and from which shall be paid such pensions and benefits in lieu thereof. Should a member not entitled to prior service credit who has been retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the pension reserve held on account of his pension shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity the amount of annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

Expense fund.

"(5) Expense fund. The expense fund shall be the fund to which shall be credited all moneys contributed for the administrative expenses of the retirement system and from which the expenses of administration of the retirement system shall be paid exclusive of amounts payable as retirement allowance and as other benefits provided herein. Contributions shall be made to the expense fund as follows:

Additional deduction for expense fund.

"(a) The retirement board shall determine annually the amount required to defray such expense in the ensuing fiscal year. There shall be deducted from the compensation of each member by the several employers the sum of one dollar for each year, in addition to all other deductions herein provided, which sum shall be transmitted to the retirement board in the same manner as herein provided for the transmission of other member contributions, and such sums so deducted shall become a part of and be charged to, said expense fund, and shall not become a part of the members' accumulated contributions.

Transfer to expense fund.

"(b) The amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid at withdrawal or death shall be transferred to the expense fund.

Proportion of expense paid by employers.

"(c) The expense not payable by contributions of members and amounts transferred from the annuity savings fund as provided under paragraph (b) of this subsection shall be paid by the employers at a rate fixed by the retirement board not in excess of one per centum (1%) of the earnable compensation of the members for whom the employers make contributions as herein provided."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1959.

CHAPTER 240

An Act to Amend Section 32-2131, Revised Codes of Montana, 1947, Relating to the Jurisdiction of Municipalities Over Violations Occurring Within the Limits of Municipalities, Allowing the Municipalities to Adopt as Ordinances All Acts Not in Conflict With State Law, Repealing All Acts in Conflict Herewith and Providing That This Act Be Effective from and After Its Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-2131 be and the same is hereby amended to read as follows:

"32-2131. **Powers of local authorities.** (a) The provisions of this act shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

Act deemed not to prevent exercise of police power in traffic regulation.

1. Regulating the standing or parking of vehicles;

2. Regulating the traffic by means of police officers or traffic-control devices;

3. Regulating or prohibiting processions or assemblages on the highways;

4. Designating particular highways as one-way highways and requiring that all vehicles thereon be moved in one (1) specific direction;

5. Regulating the speed of vehicles in public parks;

6. Designating any highway as a through highway and requiring that all the vehicles stop before entering or crossing the same, designating any intersection as a stop intersection, and requiring all vehicles to stop at one or more entrances to such intersections;

7. Restricting the use of highways as authorized in section 32-1128, Revised Codes of Montana, 1947;

8. Regulating the operation of bicycles and requiring the registration and licensing of same, including the requirement of a registration fee;

9. Regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;

10. Altering the speed limits as authorized herein;

11. Regulating the driving of vehicles by any person who is an habitual user of, or under the influence of, any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle within the incorporated limits of any city or town.

12. Regulating or prohibiting any person who is under the influence of intoxicating liquor from driving or being in actual physical control of any vehicle within the incorporated limits of any city or town.

13. Regulating or prohibiting the driving of vehicles

by any person in a willful or wanton disregard for the safety of persons or property within the incorporated limits of any city or town.

Enacting ordinances not in conflict with state or federal law.

14. Enacting as ordinances any and all provisions of this act and any and all other acts regulating traffic, pedestrians, vehicles and operators thereof, not in conflict with state law or federal regulations and to enforce the same within their jurisdiction."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1959.

CHAPTER 241

An Act to Amend Section 32-2133, of the Revised Codes of Montana, 1947, Relating to the Adoption of a Sign Manual by the State Highway Commission; Providing the State Highway Commission Shall Adopt for Use on Controlled Access Highway, an Interstate Sign Manual.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-2133 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

State highway commission to adopt sign manual.

"32-2133. **State highway commission to adopt sign manual.** The state highway commission shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this act for use upon highways within the state. Such uniform system shall correlate with and so far as possible conform to the system then current as approved by the American association of state highway officials, *provided however, that the commission shall adopt for use on controlled access highways, the interstate sign manual as adopted by the American association of state highway of-*

Proviso—adoption of interstate sign manual for use on controlled access highways.

ficials, February 10, 1958, and approved by the United States department of commerce, bureau of public roads, February 21, 1958, and all subsequent amendments relating thereto."

Approved March 11, 1959.

CHAPTER 242

An Act Providing for the Appointment of Custodial Officers to Assist the Warden in the Performance of His Duties in Superintending Prison Discipline and Prison Labor; Providing for the Supervision and Control Over Such Employees by the Warden; Providing for Various Ranks Within Such Class of Employees; Providing for a Period of Probationary Service and Training in the Respective Ranks; Providing for the Suspension, Demotion and Discharge of Such Employees, and for an Appeal from Any Such Action to the Board of State Prison Commissioners; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing for the Effective Date of the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Appointment of custodial officers by warden.

Section 1. **Appointment of custodial officers.** In the performance of his duties of superintending prison discipline and prison labor, the warden shall be assisted by a staff of custodial officers, to be composed of probationary correctional officers, correctional officers, lieutenants and captains. They shall be appointed by the warden, in such numbers as he may deem necessary, but subject to the approval of the board of state prison commissioners as to the number appointed.

Qualifications and duties.

Section 2. **Qualifications and duties.** All custodial officers must be citizens of the United States and a resident of Montana for one year. Their duties, and the respective duties of the various ranks, shall be as outlined and defined in writing by the warden. They shall be under the general supervision and control of the warden at all times.

Probationary training.

Section 3. **Probationary training.** Every person appointed to serve as a custodial officer, except those employed at the state prison at the time this act becomes effective, shall assume the rank of probationary correctional officer, and shall be placed under probationary training and service for a period of six (6) months. At the end of the six (6) months period, the warden must either promote such person to the rank of correctional officer, or discharge such person from service.

Promotions by warden.

Section 4. **Promotions — probationary period.** All promotions and appointments to the rank of lieutenant or captain shall be made by the warden. All such promotions and appointments shall be made from the prison staff and on the basis of merit. All lieutenants and captains shall be placed under probationary training and service for a period of six (6) months. At the end of the six (6) months period, the warden may retain such person in such rank or reinstate him in his previous rank without prejudice.

Suspension, demotion and discharge for cause.

Section 5. **Suspension, demotion and discharge.** Every person employed or appointed and designated as captain, lieutenant or correctional officer under and pursuant to the provisions of this act, except as above provided, shall continue in service and hold his position without demotion until suspended, demoted or discharged in the manner hereinafter provided, for one or more of the following causes:

(a) Conviction of any crime involving moral turpitude in any court of competent jurisdiction subsequent to the commencement of such employment;

(b) Gross neglect of duty or wilful violation or disobedience of orders or regulations;

(c) Drinking intoxicating liquor, or being under the influence thereof, while on duty;

(d) Sleeping while on duty;

(e) Incapacity, or partial incapacity, materially affecting the employee's ability to perform his official duties;

(f) Gross inefficiency in performing duties;

(g) Active participation in any political campaign by supporting or opposing, directly or indirectly, any political candidate, or contributing financially or otherwise, directly or indirectly, to the success or defeat of any political party or candidate;

(h) Wilful disobedience of rules and regulations governing the conduct and discipline of custodial officers. **Conduct and discipline.**

Any charge brought against any such employee must be in writing and signed and sworn to by the person making the same. It shall be filed with the warden, and a copy of the charges shall be served upon the accused employee.

The warden shall make an investigation of any charge or charges against an accused employee, upon the filing thereof, and if he finds that any such charge is true, he may punish the offending party by reprimand, suspension without pay, demotion or dismissal, at the same time giving his reasons in writing to the board. Suspension shall be without pay and for a period not to exceed twenty (20) days. If the warden finds that such charges are false, he shall so notify the accused employee in writing.

Appeal. Any employee who is so suspended, demoted or dismissed may appeal to the board of state prison commissioners by filing with such board a written request therefor within ten (10) days after he is notified of the warden's decision. It shall be the duty of the board, within thirty (30) days after the filing of such request, to conduct an open hearing upon said appeal. **Hearing.** The board shall have the power to compel the attendance of witnesses at any such hearing and to examine them under oath and to require the production of books, papers and other evidence at such hearing, and for that purpose to issue subpoenaes and cause the same to be served and executed in any part of the state. The accused employee shall be entitled to be confronted with the witnesses against him, and he, or his counsel, shall have an opportunity to cross-examine the same, and to introduce testimony and summon witnesses in his own behalf.

Decision. Within fifteen (15) days after such hearing the board shall render its decision in writing. It shall file the same in its office and with the warden, and shall serve a copy thereof upon the accused employee. If the effect of the decision is to exonerate the accused employee, he shall be entitled to reinstatement and to reimbursement for any loss in salary causd by the charges against him.

Repealing clause. Section 6. All acts or parts of acts in conflict herewith are hereby repealed.

Effective July 1, 1960. Section 7. This act shall be in full force and effect from and after July 1, 1960.

Approved March 12, 1959.

CHAPTER 243

An Act to Amend Section 69-2401 of the Revised Codes of Montana, 1947; Providing for Defining a Boarding Home or Nursing Home for Aged Persons to Be a Home Where Two or More Aged Persons Are Residing and Boarding or Receiving Nursing Care; Defining the Operator of a Boarding Home or Nursing Home; Exempting from Licensing or Inspection Those Who Care for Relatives in a Non-commercial Nursing or Boarding Home; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That Section 69-2401 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Definitions. "Boarding home." "Nursing home." ''69-2401. **Definitions.** (a) A 'boarding home' or 'nursing home' for aged persons is hereby defined to be a home where *two* or more aged persons are residing and boarding or receiving nursing care, operated by any person for compensation or hire, whether such aged persons are receiving public assistance from the State of Montana or any county therein, or are supported in whole or in part by their own or other private funds or resources.

"Operator" (b) The 'operator' of a boarding home or nursing home is defined to be any person, partnership, voluntary association or corporation who conducts or operates a home for the care, nursing care, maintenance, board and room of *two* or more aged persons *unrelated to him by blood or marriage* for compensation and hire.

(c) The term 'secretary and/or executive officer', shall mean the secretary and/or executive officer of the state board of health of Montana.

"Secretary and/or executive officer."

(d) Any person or persons caring for individuals related by blood or marriage shall be exempt from the requirement of licensing and inspection unless operating a commercial nursing home or boarding home.''

Exemption of relatives caring for aged.

Section 2. Any acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 12, 1959.

CHAPTER 244

An Act Providing for a Law to be Known as Section 68-802, Revised Codes of Montana, 1947, Providing That Members of the Public Employees Retirement System Who Are Forced to Retire at Age Sixty-five or Over, Having Less Than Ten Years Service Accumulated, be Permitted to Receive Service Retirement Benefits; and Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there be a law to be known as section 68-802, Revised Codes of Montana, 1947, and that the same shall be and read as follows:

''68-802. **Compulsory retirement.** Any member forced to retire at age sixty-five (65) or over, not having accumulated ten (10) or more years of public service credited under the Montana public employees retirement system may, by filing his written application with the board, elect to receive a service retirement allowance subject to the provisions of section 68-901, Revised Codes of Montana, 1947.''

Compulsory retirement of public employees having less than 10 years service.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 12, 1959.

CHAPTER 245

An Act to Amend Subsection 3 of Section 53-106 of the Revised Codes of Montana, 1947, Relating to License Plates and Providing Exempt License Plates for Vehicles on Loan to or Owned by the Civil Air Patrol; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That subsection 3 of section 53-106, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Tax-exempt motor vehicle plate markings.

"(3) For the use of tax-exempt motor vehicles, in addition to the marking herein provided, number plates shall have thereon the following distinctive markings:

"For vehicles owned by the state the registrar of motor vehicles may designate the prefix number for the various state departments, and all numbered plates issued to state departments shall bear the words 'State Owned' and no year number will be indicated thereon as these numbered plates will be of a permanent nature, and will be renewed by the registrar of motor vehicles at such time when the physical condition of numbered plates requires same. For vehicles owned by the counties, municipalities and school districts and used and operated by officials and employees thereof in line of duty as such, *and for vehicles on loan from the United States Government or the State of Montana, to, or owned by, the Civil Air Patrol and used and operated by officials and employees thereof in the line of duty as such,* there shall be placed on the number plates assigned thereto, in such position thereon as the registrar may designate the letter 'X' *or the word 'EXEMPT.'* Distinctive registration numbers for plates assigned to motor vehicles of each of the counties in the state and those of the municipalities and school districts situated within each of said counties shall begin with number 1 and be numbered consecutively."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 12, 1959.

CHAPTER 246

An Act to Amend Section 68-102, Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 92, Laws of Montana, 1955, Relating to Definitions of Terms Used in the Public Employees' Retirement Act by Redefining the Terms "Public Agency" and "State Employee"; to Amend Section 68-203, Revised Codes of Montana, 1947, as Amended by Section 3, Chapter 92, Laws of Montana, 1955, Relating to Whom Are Ineligible for Membership in the Public Employees' Retirement System; to Amend Section 68-701, Revised Codes of Montana, 1947, as Amended by Section 2, Chapter 176, Laws of Montana, 1953, and Section 5, Chapter 92, Laws of Montana, 1955, Relating to the Management of the Retirement Fund With Respect to the Refund of Member's Contributions; to Amend Section 68-801, Revised Codes of Montana, 1947, as Amended by Section 5, Chapter 186, Laws of Montana, 1951, and Section 1, Chapter 35, Laws of Montana, 1955, Relating to Voluntary Service Retirements With Respect to the Effective Date Thereof; and to Amend Section 68-901, Revised Codes of Montana, 1947, as Amended by Section 6, Chapter 186, Laws of Montana, 1951, Relating to the Minimum Guarantee by Providing a Minimum Guarantee for All Members Eligible for Retirement at the Age of Seventy (70) Years; and Providing that Invalidity of a Part of This Act Shall not Affect or Impair the Remainder; That This Act Shall Become Effective Upon Its Passage and Approval; and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 68-102 of the Revised Codes of Montana of 1947, as amended by section 1, chapter 92, laws of Montana, thirty-fourth session, 1955, be, and the same is hereby amended to read as follows:

Definitions.

"68-102. **Definitions.** The following words and phrases used in this act, unless a different meaning is plainly indicated in the context, shall have the following meanings:

"Retirement system." (a) 'Retirement system' shall mean the 'public employees' retirement system' created by this act.

"Contracting city." (b) 'Contracting city' shall mean any municipal corporation in the state which has elected to have all, or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose.

"Contracting county." (c) 'Contracting county' shall mean any county in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to counties, wherever in this act reference is made to 'city,' 'contracting city,' 'city employee,' 'city clerk,' 'municipal corporation,' or 'legislative body,' of any city or municipal corporation, such words shall be construed to read, respectively, as 'county,' 'contracting county,' 'county employee,' 'county clerk,' 'county' or 'board of county commissioners' of any county.

"Public agency." (d) 'Public agency' shall mean any public district, *local housing authority,* or local authority, *or public body whatsoever.*

"Contracting public agency." (e) 'Contracting public agency' shall mean any public agency in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to public agencies, whenever in this act reference is made to 'city,' 'contracting city,' 'city employee,' 'city clerk,' 'municipal corporation,' or 'legislative body,' of any city or municipal corporation, such words shall be construed to read, respectively, as 'public agency,' 'contracting public agency,' 'public agency employee,' 'secretary of governing board or analogous authorized employee of the public agency,' 'public agency,' or 'governing board or head of a public agency not managed by a board.'

"State employee." (f) 'State employee' means any person employed by the state in any capacity whatever and whose salary is paid either by warrant of the state auditor and from the fees or income of any department or agency of the state, excepting all elective *officers and persons directly appointed by the governor, who do not elect membership under the provisions of section 68-203 of this act,* court commissioners, and members of any state board or commission who serve the state intermittently and are paid on a per diem basis (except as herein otherwise provided). 'State employee' means further any employee under direct state supervision or functional state supervision as certified by the head of the state department concerned and approved by the board of administration of the public employees' retirement system, who is paid either fully or in part from federal funds, but is not subject to federal retirement system.

"Head of department."

(g) 'Head of department' means the head of any department, institution or branch of the state service which directly pays salaries out of its income or which prepares, approves, and submits salary statements of its employees to the state board of examiners, state auditor and the state treasurer for payment.

"Member."

(h) 'Member' shall mean any person included in the membership of the retirement system set forth in section 68-202 and not excluded in section 68-203.

"Board."

(i) 'Board' shall mean the 'board of administration' created in this act.

"Retirement fund."

(j) 'Retirement fund' shall mean the 'public employees' retirement fund' created and established in section 68-405.

"State service."

(k) 'State service' shall mean service rendered as an employee, hired or appointed, of the state or its university or any of the colleges, schools, components or units thereof for the purpose of this act, service rendered as an employee of any contracting city for compensation, and, for the purposes of this act, a member shall be considered as being in 'state service' only while he is receiving compensation from the state, or its university as aforesaid or the contracting city for such service, except as provided in subdivision (f) of section 68-501.

"Prison employee."

(l) 'Prison employee' for the purpose of the retirement system, means persons appointed by the warden of the state prison or by the state board of prison commissioners.

"Prior service." (m) 'Prior service' shall mean all state service rendered before the first day of July, 1945; and all state service rendered as an employee of a contracting city before the effective date of the city's participation in the retirement system, and allowable as provided in subdivision (h), section 68-501. Employees of a contracting city shall receive credit for prior service only if the election of the contracting city to participate in the public employees' retirement act is filed with the board on or before, but not after July 1, 1950. Notwithstanding the sentence preceding, 'prior service' as applied to a person, employed by the state, including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or as applied to a person who became a member prior to said amendments, because of a change in the employment status to a full time basis, shall mean all state service rendered before the effective date of said membership.

"Continuous service." (n) 'Continuous service' as applied to 'prior service' shall mean all prior service, regardless of interruptions in such service, and as applied to service as a member shall mean uninterrupted employment in state service except as provided by subdivision (h) section 68-501, and, except that when for any cause whatever, a member discontinues state service but subsequently re-enters such service within three (3) years from the date of the discontinuance, such interruption shall not be deemed to break the continuity of service.

"Beneficiary." (o) 'Beneficiary' shall mean any person in receipt of a pension, annuity, retirement allowance, death benefit or any other benefit provided by this act.

"Compensation." (p) 'Compensation' shall mean the remuneration paid in cash out of funds controlled by the state, the university or the contracting city, plus the monetary value as determined by the board of administration, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished by the state, the university, or the contracting city to a member, in payment of services.

"Compensation earnable" (q) 'Compensation earnable' by a member shall mean the average monthly compensation as determined by the board upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, it being assumed that during any absence said member was in the position held by him at the beginning of the absence; and provided that compensation received by a member subsequent to July 1, 1952, in excess of five thousand dollars ($5,000.00) per annum may be used as a basis of compensation for the purpose of this retirement system if (a) he contributes normal contributions on the excess of such salary subsequent to July 1, 1952, over five thousand dollars ($5,000.00) to his individual account in the annuity savings fund and (b) he contributes three per cent (3%) of the excess of his salary subsequent to July 1, 1952, over five thousand dollars ($5,000.00) to the pension accumulation fund of the retirement system.

"Final compensation."

(r) 'Final compensation' shall mean the average annual compensation earnable by a member during any three (3) consecutive years upon which normal contributions have been made, said years to be chosen by the member.

"Regular interest."

(s) 'Regular interest' shall mean the average interest earned on investments made hereunder, compounded at each June thirtieth, subject to subdivision (j) section 68-501 plus such additional interest as the board may credit from year to year in accordance with the provisions of this act.

"Normal contributions."

(t) 'Normal contributions' shall mean contributions by members under the provisions of section 68-701 (g) to (n), both inclusive.

"Additional contributions."

(u) 'Additional contributions' shall mean contributions by members under the provisions of section 68-701 (k).

"Accumulated normal contributions."

(v) 'Accumulated normal contributions' shall mean the sum of all the normal contributions standing to the credit of a member's individual account, together with the regular interest thereon.

"Accumulated additional contributions."

(w) 'Accumulated additional contributions' shall mean the sum of all the additional contributions standing to the credit of a member's individual account, together with the regular interest thereon.

"Accumulated contributions." (x) 'Accumulated contributions' shall mean accumulated normal contributions plus any accumulated additional contributions standing to the credit of a member's account.

"Pension." (y) 'Pension' shall mean payments for life derived from contributions made from the state controlled funds, or in the case of members from contracting cities from the funds of such cities, as provided in this act.

"Annuity." (z) 'Annuity' shall mean payments for life derived from contributions made by a member as provided in this act.

"Retirement allowance." (aa) 'Retirement allowance' shall mean the pension plus the annuity.

"Death allowance." (ab) 'Death allowance' shall mean payments for life, or until remarriage, or until the youngest child shall attain the age of eighteen (18) years, as provided in section 68-1101.

"Actuarial equivalent." (ac) 'Actuarial equivalent' shall mean a benefit of equal value when computed upon the bases of such mortality tables as shall be adopted by the board, and interest at a rate to be annually determined by the retirement board compounded annually, subject to subdivision (j), section 68-501.

"Retirement." (ad) 'Retirement' shall mean withdrawal from active service with a retirement allowance granted under the provisions of this act.

"Disability." "Incapacity." (ae) 'Disability' and 'incapacity for performance of duty' referred to herein as a basis of retirement, shall mean disability of permanent duration or disability of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

"Actuary." (af) 'Actuary' shall mean the actuary regularly and continuously employed on a full or part time basis, by the board of administration.

"Benefit." (ag) 'Benefit' shall be the retirement allowance, death allowance, death benefit or refund of accumulated contributions provided by this act.

"Fiscal year." (ah) 'Fiscal year' shall mean any year commencing with July first and ending June thirtieth next following."

Amending clause.

Section 2. That section 68-203 of the Revised Codes of Montana of 1947, as amended by section 3, chapter 92, laws of Montana, thirty-fourth session, 1955, be, and the same is hereby amended to read as follows:

Ineligible persons.

"68-203. **Who are ineligible to membership in system.** The following employees shall not become members of the retirement system:

(a) Elective officers, other than elective officers who filed with the board of administration an election in writing to become members; provided, that any person so excluded from membership, who later becomes a member hereof, shall have the option of making contributions to the retirement system in the amount which he would have contributed had he not been so excluded, and he shall then receive credit for prior service in the same manner as if he had not been so excluded. If he shall affirmatively exercise the option, the contributions of the state, or the contracting city because of his membership, shall be the same as they would have been had he not been so excluded.

(b) Inmates of state institutions who are allowed compensation for such service as they are able to perform.

(c) Persons in state institutions principally for the purpose of training, but who receive compensation.

(d) Independent contractors who are not employees.

(e) Employees serving *in employment which does not exceed the equivalent of sixty (60) working days in any fiscal year.*

(f) Persons in state service on July 1, 1945, or prior thereto who filed with the board of administration an election not to become members, provided any person so excluded from membership by his own election may on or before, but not after, July 1, 1948, file with the board of administration an election to become a member and receive credit for prior service, and shall become a member of the retirement system on the date of filing such election. Such person shall receive credit for prior service only if his election to become a member is filed with the board on or before, but not after July 1, 1948, and shall have the option of paying to the retirement system all or part of the amount which he would have contributed had he not been so excluded but had been a member to and including the date of filing such election to become a member, plus interest which would have accumulated thereon through such date. Upon the retirement of such person under section 68-801, the pensions provided by contributions of the state under this act shall be the same as if such person affirmatively exercised the option to pay to the retirement system all of that amount with accumulated interest.

(g) Persons directly appointed by the governor, and who do not file with the board of administration an election in writing to become members.

(h) Persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government or political subdivision thereof and who are receiving credit in such other system for service, it being the purpose of this section to prevent a person from receiving credit for the same service in two (2) retirement systems supported wholly or in part by public funds, and no person shall receive such credit under any circumstances. Any member of the retirement system who, because of his employment by the state, shall be required to become a member of any such other systems, shall be considered solely for the purposes of section 68-701 (m) as permanently separated from state service. The accumulated contributions of any member who shall have died after becoming a member of such other system and before receiving said accumulated contributions, shall be paid to the beneficiary nominated by him to receive any death benefit payable under section 68-1101. Contributions to the retirement fund under section 68-1307 on the basis of compensation earned by members after the effective date of termination of membership herein because of the membership in such other system, shall be repaid to the fund from which said contributions were made. For the purpose of this section, persons who merely are receiving pensions or retirement allowances, or other payments, from any source whatever, on account of service rendered to some other agency than the state and when such persons were not in state service, shall not be considered, because of such receipt, members of any other retirement or pension system.

(i) Appointive members of boards and commissions who serve the state or contracting agency on an intermittent basis, and who are paid on a per diem basis.

(j) Persons who become public employees under the meaning of this act after they have reached their sixtieth (60) birthday and have no creditable service in this system, and who do not file with the board of administration an election to become members."

Amending clause.

Section 3. That section 68-701 of the Revised Codes of Montana of 1947, as amended by section 2, chapter 176, laws of Montana, thirty-third session, 1953, and section 5, chapter 92, laws of Montana, thirty-fourth session, 1955, be, and the same are hereby amended to read as follows:

Management of public employees retirement system.

"68-701. **Management of retirement fund.** The retirement fund shall be managed as follows:

(a) The board of administration shall have exclusive control of the administration of said fund except as otherwise provided.

Investment of fund.

(b) The said fund shall be invested by the state board of land commissioners as part of the long term investment fund.

Deposit.

(c) The board of administration shall deposit monthly in the state treasury all amounts received by it as provided in this section and section 68-1307.

Custodian.

(d) The state treasurer shall be custodian of the retirement fund, subject to the exclusive control of the board of administration as to the administration thereof and the state board of land commissioners as to the investment thereof. All payments from said fund shall be made by him only upon vouchers signed by two (2) board members designated by the board of administration. A duly attested copy of a resolution of the board of administration designating such persons and bearing on its face specimen signatures of such persons shall be filed with the treasurer as his authority for making payments upon such vouchers. No voucher shall be drawn unless it has previously been authorized by resolution of the board of administration.

Interest.

(e) Interest earned on any cash deposit in a bank by the state treasurer and income on other assets constituting a part of the said fund shall be paid into said fund as received. Income, of whatever nature, earned on the retirement fund during any fiscal year, in excess of the interest credited to contributions during said year shall be retained in said fund as a reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

No interest.

(f) Except as herein provided, no member and no employee of the board of administration shall have any interest direct, or indirect, in the making of any investment, or in the gains of profits accruing therefrom. And no member or employee of the said board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits, nor shall any such member or employee in any manner use the same except to make such current and necessary payments as are authorized by said board; nor shall any member or employee of said board become an indorser or surety as to, or in any manner an obliger for investments by the board.

Computation of rates of contribution.

(g) The normal rates of contribution of members shall be based on sex and the age at the nearest birthday at the time of entrance into the retirement system. The normal rates of contribution shall be such as will provide an average annuity at age sixty-five (65) equal to one one hundred-fortieth (1/140) of the final compensation of members, according to the tables adopted by the board, for each year of service rendered after entering the system. Nothing in this section shall prevent the adoption of one (1) schedule of rates for males and one (1) schedule for females.

Annuity.

(h) The actual amount of annuity receivable by any member upon retirement shall be the actuarial equivalent of his accumulated contributions, as provided in subdivisions (a) and (k) of section 68-1307.

(i) From and after July 1, 1955, the board of admin-

Certification of rates to state and university.

istration shall certify to the head of each office or department of the state and to the registrar of the university the normal rate of contribution as provided in this act for each member in such office, department, or the university, respectively. The head of each office or department of the state shall apply such rate of contribution to the compensation of each member, and shall certify to the state auditor on each and every payroll the amount to be contributed and shall furnish immediately to the board of administration a copy of each and every such payroll; and each such amount shall be deducted by the head of each office or department and shall be remitted to the board. The registrar of the university shall apply the rate of contribution certified to him by the board to the compensation of each member employed by the university and the contributions so determined shall be deducted by the registrar of the university from the compensation of each such member; each such amount shall be remitted to the board and the registrar of the university shall furnish to the board a copy of each and every salary roll and payroll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by members during the period covered by such payment, except their claims to the benefits to which they may be entitled under the provisions of this act.

Certification to city members.

(j) From and after July 1, 1955, the board of administration shall certify to the city clerk, or other officer designated by the legislative body, of each contracting city the rate of contribution as provided in this act for each member included under the retirement system respectively. The city clerk, or other officer, shall apply the rate of contribution certified to him by the board to the compensation of each member included in the retirement system and the contribution so determined shall be deducted by the city clerk, or other officer, from the compensation of each such member; each such amount shall be remitted to the board and the city clerk or other officer, shall furnish to the board a copy of each and every salary roll and payroll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims to the benefits to which they may be entitled under the provisions of this act.

Election to contribute at higher rates.

(k) Subject to the rules and regulations to be established and promulgated by the board of administration, any member may elect to contribute at rates in excess of those provided for in subsection (i) and (j) of this section of this act, for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the state or contracting city any additional financial obligation. The provisions of subdivision (f) and (g) of section 68-203 shall apply also to additional contributions. The board, upon application shall furnish to such member information concerning the nature and amount of additional benefits to be provided by such additional contributions.

Annual membership fee.

(l) In addition to the contributions hereinbefore provided to be paid by employees who are members of the retirement system created by this act, every such employee shall pay an annual membership fee of one dollar ($1.00) which amount, together with other moneys appropriated for that purpose, shall be used for the support of the board of administration.

Discontinuance of service.

(m) From and after July 1, 1955, should the state service of a member be discontinued otherwise than by death or retirement, he shall after the date of discontinuance, be paid such part of his contributions as he demands. The board may, in its discretion, withhold for not more than one (1) year after a member last rendered state service, all or part of his contributions if after a previous discontinuance of state service he withdrew all or part of his contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in subsection (n).

Election on discontinuance service.

Any member with ten (10) or more years of service, whose service is discontinued otherwise than by death or retirement, shall have the right to elect within ninety (90) days after such termination of service, and without right or revocation, whether to allow his accumulated contributions to remain in the retirement fund. Upon the qualification for retirement by reason of age or disability of a member who has elected to allow his accumulated contributions to remain in the retirement fund, he shall receive a retirement allowance in accordance with the provisions of section 68-901, exclusive of subparagraph (g) of section 68-901.

Redeposit.

(n) Any member may redeposit in the retirement fund, in one sum or in not to exceed twelve (12) monthly or twenty-four (24) semimonthly payments, an amount equal to that which he withdrew therefrom at the last termination of his membership, subject to minimum monthly or semimonthly payments as fixed by the board of administration. If a member, upon re-entering the retirement system after a termination of his membership, does not elect to make or, having so elected, subsequently does not make such redeposit, he shall re-enter as a new member without credit for any service except the prior service credited to him before said termination, and the rate of his contribution for future years shall be the normal rate provided for in this act at his age of reentrance; otherwise his rate of contribution for future years shall be the same as his rate prior to the last termination of his membership, and his membership shall be the same as if unbroken by such last termination. Regardless of whether such redeposit is made, the documents held by the retirement system as executed by said member prior to termination of membership shall be held by the system for the same purposes as prior to said termination, and beneficiaries nominated in such documents shall continue unchanged until changed as provided herein.

Transfer of funds.

(o) The board may in its discretion transfer the savings account of a member to the pension accumulation fund if the account has been dormant for a period of ten (10) years provided that no right of the member shall be jeopardized by such transfer and the savings account shall be transferred to the member's name upon subsequent re-entry to membership.''

Amending clause.

Section 4. That section 68-801 of the Revised Codes

of Montana of 1947, as amended by section 5, chapter 186, laws of Montana, thirty-second session, 1951, and section 1, chapter 35, thirty-fourth session, 1955, be, and the same are hereby amended to read as follows:

Voluntary service retirement.

"68-801. **Voluntary service retirement.** (a) Retirement of a member for service shall be made by the board of administration upon his attaining the age of sixty (60) years or more and upon his completion of ten (10) or more years of public service credited under this act and the filing of his written application to the board, subject to the provisions of section 68-901; *and provided, however, that the service retirement allowance shall commence on the day following the member's last day of state service or on the first day of the month in which his application is filed with the board of administration, whichever is later.*

Commencement of allowance.

Reemployment.

(b) Notwithstanding any other provision of this act, any person who has been retired for service (as distinguished from disability) under the provisions of this act may be employed in state service in accordance with the laws governing such service in the same manner as a person who has not been so retired.

Reinstatement.

(c) Any person so employed shall be considered as reinstated from retirement and his retirement allowance shall be cancelled forthwith. His individual account shall be credited with an amount which is the acturial equivalent of his annuity at the time of such reinstatement, and his rate of contribution for future years shall be the same as if he had continued in state service during the period of his retirement. Such person shall receive credit for prior service in the same manner as if he had never been retired."

Amending clause.

Section 5. That section 68-901 of the Revised Codes of Montana of 1947, as amended by section 6, chapter 186, laws of Montana, thirty-second session, 1951, be, and the same is hereby amended to read as follows:

Service retirement allowance.

"68-901. **Service retirement allowance.** A member upon retirement from service is entitled to receive a service retirement allowance which shall consist of:

(a) An annuity which shall be the acturial equivalent of his accumulated contributions at the time of his retirement.

(b) A pension, purchased by the contributions of the state, or the contracting city, equal to that portion of the annuity purchased by the accumulated normal contributions of the member; and

(c) An additional pension, purchased by the contributions of the state, for members other than persons who are employees of the university at the time of becoming members, and members employed by a contracting city. Such additional pension shall be equal to one-seventieth (1/70) of the member's final compensation, multiplied by the number of years of prior service, except that if a member retires before attaining the age of sixty-five (65) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty-five (65) will purchase at the actual age of retirement.

(d) If a member retires before attaining the age of sixty-five (65) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this section as deferred to age sixty-five (65) will purchase at the actual age of retirement.

(e) An additional pension, purchased by contributions of the state, for members who are also employees of the university at the time of becoming members, said additional pension to accrue from the date of retirement under the system regardless of whether said retirement was prior to the effective date hereof. Such additional pension shall be equal to one-seventieth (1/70) of the average annual compensation earnable by him during the three (3) years preceding retirement, multiplied by the number of years of prior service credited to him, except that if a member retires before attaining the age of sixty-five (65) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty-five (65), will purchase at the actual age of retirement. If, however, a member who is employed by the university at the time of becoming a member, shall not have rendered state service before January 1, 1946, his additional pension shall be based upon one-seventieth (1/70) of the average annual compensation earnable by him during the first year of the state service, or such portion thereof as he may have served before January 1, 1946, multiplied by the number of years of prior service credited to him.

(f) An additional pension on account of prior service, purchased by the contributions of the contracting city for members who are also employees of a contracting city as may be provided for under the contract between the board and the contracting city.

MINIMUM GUARANTEE

Minimum guarantee.

(g) When a member enters the retirement system with, *or without*, credit for prior service, and *is otherwise eligible for retirement* after attaining the age of seventy (70) years, if his final compensation was such that one-half (½) thereof is in excess of the total of his pension, annuity, and additional pension for prior service, a second additional pension for prior service sufficient to cause his retirement allowance to amount to one-half (½) of such final compensation shall be paid him on account of prior service, but in no event shall a greater second additional pension be paid than will cause the total retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, to amount to the sum of four hundred eighty dollars ($480.00) per year. The provisions of this section shall not apply to the members who are employees of a contracting city unless provided for by contract between the board and the contracting city, but if a member be employed by more than one (1) of such cities, his aggregate retirement allowances shall be taken into account in applying said provisions, and said application shall be made as if the member was employed by one or more offices or departments of the state.

DISABILITY RETIREMENT

Disability retirement.

(h) Any member who has not reached seventy (70) years of age shall be retired for disability if incapacitated for the performance of duty as the result of any injury or disease arising out of and in the course of his employment. Incapacity for performance of duty shall be determined by the board of administration of the public employees' retirement system, and said board of administration shall determine whether such incapacity is the result of injury or disease arising out of and in the course of employment. In the discharge of its duty regarding such determination, the board or any member thereof or duly authorized examiner or other duly authorized representative of the board shall have power to conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a claim for disability retirement. If the board determines on the evidence that it obtains and application filed that the disability resulted from injury or disease arising out of and in the course of employment, the said member shall be retired forthwith and be paid the benefits provided under the retirement system. Any such member incapacitated for the performance of duty by reason of a cause not included in the immediately preceding sentence, and any other member so incapacitated, regardless of the cause, shall be retired forthwith regardless of age but only after ten (10) years of service to the state, or to the contracting city.

Deduction of compensation for disability.

Any compensation paid by the industrial accident board of the State of Montana to any member of the retirement system for total and permanent disability resulting from injury or disease arising out of and in the course of employment shall be deducted from the benefits payable under the retirement system for such disability.

Finding of disability.

In any case where the industrial accident board makes a determination that disability of a state employee resulted from injury or disease arising out of and in the course of employment and pays compensation thereon for a total and permanent disability, the industrial accident board shall certify its findings and determination to the board of administration of the public employees' retirement system.

Medical examination.

(i) Subject to the requirements as to service and cause of disability stated in subdivision (h) of this section, and upon the application of a member or upon the application of the head of the office or department in which such member is or was last employed, or upon application of the university, if such member is an employee of the university, or any other person on behalf of such member, while such member is in state service, within four (4) months after such member's discontinuance of state service, or while such member continuously, from the date of discontinuance of state service to the time of the application or motion, is physically or mentally incapacitated to perform his duties, may apply for, or the board of administration upon its own motion may order, a medical examination to determine the existence of such incapacity. Upon the receipt of such application, the board of administration shall order such medical examination. If the medical examination and other available information show, to the satisfaction of said board, that the member is incapacitated physically or mentally for the performance of his duties in the state service, the said board shall forthwith retire the member for disability. The said board shall secure such medical service and advise as is necessary to carry out the purposes of this section and of sections 68-1001 through 68-1004, and shall pay for such medical services and advise such compensation as the board deems reasonable.

DISABILITY RETIREMENT ALLOWANCE

Disability retirement allowance—computation.

(j) Upon retirement for disability a member who has attained the age of sixty (60) years shall receive a service retirement allowance as provided by subsections (a), (b), (c) of this section. Upon retirement of a member for disability resulting from injury or disease arising out of and in the course of employment, such member shall receive a retirement allowance of fifty per centum (50%) of his final compensation.

(k) Upon retirement for disability a member who is an employee of the university and who has attained the age of sixty (60) years, shall receive a service retirement allowance as provided in subdivisions (a), (b), and (c) of this section.

(l) Every other member retired for disability shall shall receive a retirement allowance which shall consist of:

(i) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; **and**

(ii) If, in the opinion of the board of administration, such disability is not due to intemperance, wilful misconduct or violation of law on the part of the member, a pension purchased by the contributions of the state, or of the contracting city which, together with his annuity provided by his accumulated normal contributions, shall make the retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, equal to (a) ninety per cent (90%) of one-seventieth (1/70) of his final compensation multiplied by the number of years of service credited to him, if such disability retirement allowance exceeds one-fourth (¼) of his final compensation; otherwise, (b) ninety per cent (90%) of one-seventieth (1/70) of his final compensation multiplied by the number of years of service which would be creditable to him were his service to continue until attainment by him of age sixty-five (65), but in such case the retirement allowance shall not exceed one-fourth (¼) of such final compensation. In no event, however, shall the pension purchased by the contributions of the state or of the contracting city be more than sufficient to make the disability retirement allowance, exclusive of the annuity provided by accumulated additional contributions, exceed the service retirement allowance, exclusive of any annuity purchased by accumulated additional contributions, receivable by the member should he retire at the lowest age at which he would be eligible for service retirement.

(iii) If, in the opinion of the board, the disability is due to intemperance, wilful misconduct or violation of law, on the part of the member, and the annuity to which said member is entitled under subdivisions (j), (k) and (l) of this section, is less than two hundred forty ($240.00) dollars per year, the board of administration in its discretion, may pay to said member, in one lump sum and in lieu of said annuity, his accumulated contributions."

Section 6. If any clause, sentence, paragraph, section, subdivision, or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be **Saving clause.**

invalid, inoperative, or unconstitutional, such decision shall not affect, impair, or invalidate the remaining portions of this act, but shall be confined in its operation to the clause, sentence, paragraph, section, subdivision, or part directly adjudged to be invalid, inoperative or unconstitutional.

Repealing clause.

Section 7. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 8. This act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1959.

CHAPTER 247

An Act to Amend Section 32-103 of the Revised Codes of Montana, 1947, Defining Public Highways, to Provide for Certain Changes in the Definition; to Amend Section 32-2114 of the Revised Codes of Montana, 1947, Enacted as Section 14, Chapter 263 of the Montana Session Laws of 1955, Defining Street or Highway, to Provide Changes in Definition; to Amend Section 84-1831 of the Revised Codes of Montana, 1947, Enacted as Section 2, Chapter 162 of the Montana Session Laws of 1955, Relating to Definitions for the Purpose of Special Fuel Tax; to Establish the Policy of the State of Montana in the Regulation, Licensing and Taxation of Fuel Used in Motor Vehicles Operated in the State; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-103 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Public highways defined.

"32-103. **Public highways defined.** *As used in this act, 'public roads and highways of this state' shall mean all streets, roads, highways, and related structures as have been, or shall be, built and maintained with appropriated funds of the United States and which have been, or shall* *be, built and maintained with funds of the State of Montana, or any political subdivision thereof, or which have been or shall be dedicated to public use or have been acquired by eminent domain."*

Amending clause.

Section 2. That section 32-2114 of the Revised Codes of Montana, 1947, enacted as section 14, chapter 263 of the Montana Session Laws of 1955, be, and the same is hereby amended to read as follows:

"32-2114. **Street or highway—Private road or driveway—Roadway—Sidewalk — Laned roadway — Through highway—Controlled-access highway.**

Street or highway.

(a) Street or Highway. The entire width between the boundary lines of every *street, highway and related structure as have been, or shall be, built and maintained with appropriated funds of the United States and which have been, or shall be, built and maintained with funds of the State of Montana, or any political subdivision thereof, or which have been or shall be dedicated to public use or have been acquired by eminent domain.*

Private road or driveway.

(b) Private Road or Driveway. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Roadway.

(c) Roadway. That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term 'roadway' as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Sidewalk.

(d) Sidewalk. That portion of a street between the curb lines or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

Laned roadway.

(e) Laned Roadway. A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

Through highway.

(f) Through Highway. Every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this act.

Controlled-access highway.

(g) Controlled-access Highway. Every highway, street or roadway, in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway."

Amending clause.

Section 3. That section 84-1831 of the Revised Codes of Montana, 1947, enacted as section 2, chapter 162 of the Montana session laws of 1955, be, and the same is hereby amended to read as follows:

Definitions.

"84-1831. **Definitions.** As used in this act, the following definitions shall apply:

"Person."

(a) 'Person' means and includes any person, firm, association, joint stock company, syndicate, copartnership, or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment or both, as applied to a firm, association, syndicate, or copartnership, means and includes the partners or members thereof, and as applied to joint stock companies and corporations, the officers thereof.

"Board."

(b) 'Board' means the state board of equalization of the State of Montana.

"Public roads and highways."

(c) *As used in this act, 'public roads and highways of this state' shall mean all streets, roads, highways, and related structures as have been, or shall be, built and maintained with appropriated funds of the United States and which have been, or shall be, built and maintained with funds of the State of Montana, or any political subdivision thereof, or which have been or shall be dedicated to public use or have been acquired by eminent domain.*

"Motor vehicle."

(d) 'Motor vehicle' means any vehicle which is self-propelled upon the highways.

"Special fuel."

(e) 'Special fuel' means and includes all combustible gases and liquids, including liquid petroleum gases, suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor fuel as defined in section 84-1801 (1) (a).

"Use."

(f) 'Use' means either the receipt, delivery or placing of special fuels by a special fuel dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him, while such vehicle is within this state, or the consumption by a special fuel user of special fuels in propulsion of a motor vehicle on the highways of this state.

"Special fuel dealer."

(g) 'Special fuel dealer' means any person in the business of handling special fuel who delivers any part thereof into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him. For this purpose the term 'fuel supply tank or tanks' does not include cargo tanks even though fuel is withdrawn directly therefrom for propulsion of the vehicle.

"Special fuel user."

(h) 'Special fuel user' means any person who consumes in this state special fuel for the propulsion of motor vehicles owned or controlled by him upon the highways of this state.

"Bond."

(i) 'Bond' means: (1) a bond duly executed by such special fuel dealer or special fuel user as principal with a corporate surety qualified under the laws of Montana, which bond shall be payable to the State of Montana conditioned upon faithful performance of all requirements of this act, including the payment of all taxes, penalties and other obligations of such special fuel dealer or special fuel user arising out of this act; or (2) a deposit with the state treasurer by the special fuel dealer or special fuel user under such terms and conditions as the board may prescribe of a like amount of lawful money of the United States or bonds or other obligations of the United States or the State of Montana or of any county thereof, of an actual market value not less than the amount so fixed by the board."

Exemption of vehicles operated across public roads and highways.

Section 4. The operation of motor vehicles directly across the public roads and highways of this state, especially as required in the transportation of natural resource products, including agricultural products and livestock, shall not be considered to be the operation of such vehicles on the public roads and highways of this state; provided, that such crossings are adequately marked with such warning signs or devices, and are subject to relating to stopping before entry, and to restoration of any damage, as may reasonably be prescribed by the state or local

Marked crossings.

agency in control of safety of operation of the public highway involved.

Authority exercised only as to vehicles operated on public roads and highways.

Section 5. The authority to regulate motor vehicles, to license the same, or to tax the fuel used therein, under the provisions of any statutes of the State of Montana, shall only be exercised as to vehicles operated on the public roads and highways of this state.

Repealing clause.

Section 6. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 12, 1959.

CHAPTER 248

An Act to Amend Section 71-1004 of the Revised Codes of Montana of 1947, as Amended, Relating to the Amount of Payment to Persons Having Silicosis; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 71-1004 of the Revised Codes of Montana of 1947, as amended, be, and the same is hereby amended to read as follows:

Amount of payments to persons having silicosis.

"71-1004. **Amounts of payments.** Subject to the provisions of this act and the deductions herein provided, any person who has silicosis, as defined in this part, and who has, subject to the regulations and standards of the state and county departments, been determined by the state department to be entitled to a payment under this part for silicosis, shall be granted a payment by the said state department of *seventy-five dollars ($75.00)* per month subject to such appropriations as may from time to time be made. The legislature shall authorize such additional appropriations as may be necessary to make the increased monthly payments provided herein."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 12, 1959.

CHAPTER 249

An Act Authorizing the Court to Sentence a Convicted Misdemeanant to Confinement With Parole During the Periods of the Prisoner's Employment; Specifying the Disposition to be Made of the Prisoner's Earnings; Setting Forth Conditions for Diminution of the Misdemeanant's Sentence; Declaring the Consequences of the Prisoner's Violation of Parole Conditions; Extending the Provisions of This Act to Jail Commitments for Adjudicated Contempt of a Court of Record; Containing a Savings Clause, Effective Date and Repealing All Acts and Parts of Acts in Conflict.

Be it enacted by the Legislative Assembly of the State of Montana:

Court to determine type of confinement.

Section 1. **Court to determine type of confinement.** A court, after having sentenced a person to confinement in a county jail, may, in its discretion, upon request of the county attorney and sheriff of such county, and with the consent of the convicted person, order that any part of the imprisonment so imposed be served in confinement, with parole during the hours or periods the convicted person is actually employed.

Parole for continuation of employment.

Section 2. **Continuation of work.** Upon the issuance of such an order under this act, the sheriff shall arrange for the convicted person to continue his regular employment without interruption insofar as is reasonably possible; provided, however, that said prisoner shall be confined in the county jail during the hours when he is not employed.

Disposition of earnings.

Section 3. **Disposition of prisoner's earnings.** The earnings of the prisoner shall be collected by the sheriff. From such earnings, the sheriff shall pay the prisoner's board and personal expenses, both inside and outside the jail and, to the extent directed by the court, pay the support of his dependents, if any, and any balance shall be retained until his discharge.

Reduction of sentence for good conduct.

Section 4. **Reduction of sentence.** The committing court may, in its discretion, upon request of the county attorney and sheriff of such county, reduce the sentence of the prisoner up to one-fourth of the full term, if, in the opinion of the court, the prisoner's conduct, diligence and general attitude merit such diminution.

Violation.

Section 5. **Violation.** In cases where the convicted person violates the conditions of said sentence, he shall be returned to the court; the court may then require that the balance of his sentence be spent in full confinement and, further, the court may cancel any diminution of sentence granted under this act.

Work arrangement in another county.

Section 6. **Work arrangement in another county.** The court may, by order, authorize the sheriff of the sentencing county to arrange with a sheriff of any other county within the State of Montana, to have the convicted person transferred to the other county where it appears the convicted person can continue his regular employment in the latter county; provided, however, when such transfer has been made to another county, the sheriff of the sentencing county shall still collect all monies earned by the convicted person, and shall dispose of said monies as provided by section 3 of this act.

Contempt of court.

Section 7. The provisions of this act shall extend to a person committed to the county jail by a court of record upon an adjudication of contempt of court.

Savings clause.

Section 8. **Savings clause.** If any competent court shall find any section or sections of this act to be unconstitutional or otherwise invalid, such finding shall not affect the validity of all remaining sections of this act, which can be given effect.

Repealing clause.

Section 9. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 10. This act shall become effective from and after the date of its passage and approval.

Approved March 12, 1959.

CHAPTER 250

An Act to Authorize the State of Montana to Become Indebted for the Sum of Five Million Dollars ($5,000,000) in Excess of the Constitutional Limitation of

Indebtedness and Over and Above Any Bonded Indebtedness Heretofore Incurred or Created and for Which the State of Montana is Now Obligated for the Construction and Equipment of Necessary Buildings and Other Permanent Improvements for the Montana State Prison at Deer Lodge, Montana; Providing for the Issuance of Bonds in the Name of the State of Montana as Evidence of Such Indebtedness and for the Sale Thereof; Prescribing the Form of Such Bonds and Providing for a Levy of an Annual Tax in Excess of the Amount Prescribed by the Constitution for State Purposes Sufficient to Pay the Principal Thereof and the Interest Accruing Thereon; and Providing for a Referendum of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Authority of state board of examiners to issue bonds not in excess of five million dollars over constitutional limitation.

Section 1. That the state board of examiners of the State of Montana is hereby authorized and empowered to issue bonds in the name of the State of Montana, in an amount not exceeding five million dollars ($5,000,000) in excess of the constitutional limitation of indebtedness and over and above any bonded indebtedness heretofore incurred or created and for which the State of Montana is now obligated, the money derived from the sale of said bonds to be used for the purposes of constructing and equipping necessary buildings and other permanent improvements for the Montana state prison at Deer Lodge, Montana.

Bonds issued as needed.

Section 2. Such bonds shall be issued from time to time by the state board of examiners at such times and in such amounts as may appear to said state board of examiners of the State of Montana in the exercise of its judgment and discretion to be for the best interests of the state and necessary for the construction and equipment of necessary buildings and other permanent improvements for the Montana state prison.

Provisions of bonds.

Section 3. Each series of bonds provided for in this act shall be issued in such denominations, shall be dated, shall mature serially over a period of not to exceed twenty (20) years from the date thereof, and shall bear interest at a rate or rates not exceeding four per cent (4%) per annum, payable semiannually, as may be determined by the state board of examiners; provided, however, that for each series of said bonds issued after the issuance of the first series thereof, the board of examiners shall so fix the interest payment dates that the interest thereon will become due and payable on the same dates as the interest on the first bonds shall become due and payable, and in order so to do the state board of examiners may provide that the first interest shall be due and payable at a date less than six (6) months after the date of the issuance of such series. Said bonds may be made redeemable before maturity, at the option of the state board of examiners, at such price or prices and upon such terms and conditions as may be fixed by the state board of examiners prior to the issuance of said bonds.

Bonds payable where.

The bonds provided for in this act shall be payable as to both principal and interest at the office of the state treasurer of the State of Montana at Helena, Montana, or at the option of the holders thereof at the office of the fiscal agent of the State of Montana in the borough of Manhattan, City and State of New York, and shall be executed in the name of the State of Montana by the members of the state board of examiners under the great seal of the State of Montana. The coupons representing interest on said bonds shall be executed with the facsimile signatures of the members of the state board of examiners.

Form of bonds.

Section 4. The state board of examiners shall prescribe the form of said bonds, and the bonds of each series shall bear upon their face the words: "Montana state prison bonds of the State of Montana" with a letter or figure to designate the series thereof, and shall be registered in the office of the state treasurer. The state board of examiners of the State of Montana is hereby authorized and directed to issue and sell said bonds as provided for in this act in such manner as they shall deem for the best interests of the state and carrying out of the provisions of this act at such times within a period of five (5) years from and after the approval of this act as the said state board of examiners shall from time to time determine necessary for the purposes herein provided. No bond provided for herein shall be disposed of for less than its par value.

Disposition of moneys.

Section 5. All moneys derived from the issuance and sale of the bonds authorized by this act shall be paid into the state treasury and shall constitute a special fund for the construction and equipment of necessary buildings and other permanent improvements for the Montana state prison. Such moneys shall be expended only for the purposes herein expressly provided for and shall be disbursed by the state treasurer on warrants properly drawn against such fund by the state auditor pursuant to the orders of the state board of examiners.

Levy of tax to pay interest.

Section 6. There shall be levied annually upon all property in the State of Montana subject to taxation an ad valorem tax upon each dollar of the taxable valuation of such property in excess of the amount prescribed by the constitution for state purposes sufficient to pay the interest accruing on said bonds as such interest shall fall due and to pay the principal of said bonds as such principal becomes due, said levy, however, not to exceed one (1) mill per annum until the indebtedness herein provided for shall have been fully paid and discharged. The tax when collected by the county treasurers of the several counties of the state shall be by them accounted to and paid into the state treasury of the State of Montana, and by the state treasurer placed in the ''Montana state prison bond interest and redemption fund,'' which funds shall be used exclusively for the payment of principal and interest on said bonds as the same become due.

Referendum.

Section 7. There shall be a referendum on this act and the secretary of state is hereby required, and it is made his duty, to submit this measure in accordance with the provisions of the constitution and the laws of the State of Montana applicable thereto to the people of the state for their approval or rejection at the general election to be held in November, 1960. The official ballot used in said election shall have printed thereon the title of this act and below the same shall be printed the words:

☐ For Referendum Number................Relating to the bond issue for Montana State Prison

☐ Against Said Referendum ....

Each qualified elector shall designate his preference by marking an "X" in the square opposite the proposition for which such elector desires to vote. The votes cast for and against the law above proposed shall be canvassed, determined and declared in the manner provided by the general election laws of the state.

Costs paid from proceeds. Section 8. The cost of the bonds issued under this act and all fees, commissions, and the compensation of the architect or architects employed in the construction and to prepare plans shall be paid out of the proceeds of the bonds.

Savings clause. Section 9. If any parts of this act shall be declared by any court of competent jurisdiction to be unconstitutional such unconstitutionality shall not affect the validity of the remaining parts of this act.

Repealing clause. Section 10. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately. Section 11. This act shall be in full force and effect from and after its passage and approval.

Approved March 13, 1959.

CHAPTER 251

An Act to Promote and Protect the Public Health Through the Regulation of the Business of Plumbing; Creating a State Plumbing Board and Empowering Said Board and State Board of Health to Adopt a State Plumbing Code Covering the Practice of Plumbing and Establishing Minimum Standards for Plumbing Work; Providing Concurrent Authority for Cities and Towns; Fixing Penalties; Providing for an Effective Date of Said Plumbing Code; to Amend Section 66-2403, Revised Codes of Montana, 1947, Relating to Members on the State Board of Plumbing Examiners, by Removing One (1) Journeyman Plumber and Substituting in His Place and Stead One (1) Registered Professional Engineer, Qualified in Mechanical Engineering; and Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is hereby declared that the public health and welfare require that minimum standards for the planning, installing, altering, extending, repairing and maintaining of plumbing systems be established for the protection of the people of the state.

Minimum standards required for plumbing.

Section 2. The board of plumbing examiners shall also constitute and be the state plumbing board which is hereby vested with the powers and duties hereinafter enumerated.

State plumbing board.

Section 3. The board shall adopt rules for the transaction of its business and shall keep a record of its official actions. It shall annually select a chairman from its members. The board may employ a secretary who need not be a member of the board and such other persons as may be necessary for its work.

Rules, records, chairman and secretary.

Section 4. Nothing in this act shall be construed as requiring that licensed plumbers be employed in the performance of any plumbing work.

Licensed plumbers not required.

Section 5. The state plumbing board shall, by regulation, prescribe minimum standards which shall be uniform and which standards shall thereafter be effective for all new plumbing installations; such regulations shall contain the minimum requirements for plumbing as set forth in the American standard national plumbing code, numbered ASA A40.8-1955, and published by the American society of mechanical engineers. Such regulations, upon approval of the state board of health and the attorney general and their legal publication, shall be the state plumbing code and shall have the force of law. A copy of the code shall be supplied to each person licensed under the provisions of title 66, chapter 24 of the laws of the State of Montana, or any other interested person, for a fee of no more than five dollars ($5.00).

Board shall prescribe minimum standards.

Section 6. The district court of any county of the state shall have jurisdiction in equity, upon application of said state plumbing board or said state board of health, to enforce this act and to restrain from connection any new plumbing installations, upon finding, after hearing thereupon, that said plumbing is inferior to the standards of said state plumbing code.

Enforcement.

Section 7. Any moneys paid for state license fees for state plumber licenses, as provided for in title 66, chap-

Expenses.

ter 24 of the laws of the State of Montana, may be applied in defraying the expense of the board in carrying out the provisions of this act.

Revocation or suspension of license.

Section 8. Any person, firm, or corporation licensed under the provisions of title 66, chapter 24 of the laws of the State of Montana who performs plumbing work in any building whatsoever, below the minimum basic standards for plumbing as set forth in said state plumbing code shall have their license revoked or suspended by the state plumbing board.

Proceedings.

Hearing.

Service upon accused.

Section 9. Proceedings for the revocation or suspension of a plumber's license may be taken by the board upon its initial motion, for matters within its knowledge, or may be taken upon the information of another. All accusations must be in writing, verified by some party familiar with the facts therein charged, and three copies thereof must be filled with the secretary of the board. Upon receiving the accusation the board shall, if it deem the accusation sufficient, make an order setting the same for hearing, and requiring the accused to appear and answer such charge or accusation at said hearing, at a specified time and place in the county wherein the alleged violation occurred, and the secretary shall cause a true copy of said order of the board and of the accusation or charge to be served upon the accused at least ten (10) days before the day appointed in the order for said hearing.

Process and proof.

Section 10. Process issued by the board, and proof of service shall be made as provided in civil cases in courts of record and shall be filed with the secretary of the board. The accused must appear at the time appointed in the order and answer the charges and make his defense to the same, unless for sufficient cause, upon the accused's application or the board's order, the board assign another day for that purpose.

Powers to hear and determine.

Administer oaths, subpoena.

Section 11. If the accused does not appear the board may proceed and determine the accusation in his absence. If the accused confess the accusation or refuse to answer the charge, or upon the hearing thereof, the board shall find the charge or accusation (whether one or more) true, it may proceed to an order either revoking the license of the accused or suspending it for a fixed period. The board and the accused may have the benefit of counsel, and the board shall have the power to administer oaths, take depositions of witnesses in the manner provided by law in civil cases, and to issue subpoenas for the attendance of witnesses and the producing of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state. Such subpoena shall be issued over the signature of the secretary of the board and in the name of the State of Montana.

Right to judicial review.

Section 12. In case of revocation or suspension of a license by said board, the licensee whose license shall have been revoked by said board, shall have the right to judicial review of said revocation or suspension by commencing proper proceedings therefor within thirty (30) days of the filing of the order of cancellation or revocation of said license. Such review shall be in the district court in and for the county in which was held the meeting of the board in which such order of revocation or suspension was made.

Plumbing ordinances must meet minimum standards.

Section 13. Any municipality of the State of Montana may by ordinance adopt rules and regulations governing plumbing, drainage and ventilation of plumbing within its corporate limits, but the standards provided for therein shall not be less nor lower than the minimum standards provided for them in the state plumbing code.

Effective 30 days after mailing copy of code to each license holder.

Section 14. The state plumbing code shall be in full force and effect thirty (30) days after the mailing by said board of a copy of the state plumbing code to each person holding a license under the provisions of title 66, chapter 24 of the laws of the State of Montana; provided, however, said code shall be mailed not later than the first day of August 1959.

Exempt installations.

Section 15. This act shall not be construed to apply to, or to affect, plumbing installations in any mines, mills, smelters, refineries, reduction works, public utilities, manufacturing industries, or plumbing installations on farms having their own individual water supply or sewage disposal system.

Amending clause.

Section 16. That section 66-2403 be, and the same is hereby amended to read as follows:

Board of plumbing examiners.

"66-2403. **Board of plumbing examiners — Appointment — Terms — Compensation — Examination of Appli-**

Qualifications and terms.

cants. Within sixty days after this act becomes a law, the governor of the State of Montana shall appoint a board of plumbing examiners consisting of five members —one master plumber, *one journeyman plumber,* who shall be of legal age, residents of Montana for more than one year and shall have been at least five out of the last eight years, immediately preceding their appointment, duly licensed master or *journeyman* plumbers, *one registered professional engineer, qualified in mechanical engineering,* one member to be appointed at large as representative of the public who is not engaged in the business of installing or selling plumbing equipment, and the director of the division of sanitary engineering of the Montana state board of health, or his duly designated representative, who shall be an ex officio member and secretary of the state board of plumbing examiners. The office of the director of the division of sanitary engineering of the state board of health shall act as the office through which all business of the board shall be transacted. The appointed members of this board of plumbing examiners shall serve for a period of four years from the date of their appointment, providing however the first board of plumbing examiners shall serve as follows: one member for one year, one member for two years, one member for three years and one member for four years and the governor in making the appointment shall designate the time that each member constituting the first board shall serve. Thereafter, upon the expiration of the term of office of each member of the board of plumbing examiners or when a vacancy occurs, the governor shall make a new appointment for the unexpired term or for a period of four years. *The journeyman plumber whose term would next expire after passage and approval of this act is hereby removed from said board and in his place and stead shall be installed said registered professional engineer, qualified in mechanical engineering.* The members of the said board shall be entitled to a compensation of ten dollars per diem, each, for each and every day while actually engaged in the work of the board, the compensation, however, to be paid from the revenues realized under the provisions of this act, but not otherwise. Any applicant for a state license to work at the business of plumbing in this state shall be examined as to his qualifications by the board of examiners of plumbers for the State of Montana. It shall be the duty of the said board to examine each appli-

Compensation.

cant for a state license as provided for in this act, to determine his qualifications and fitness for carrying on the business of a master plumber or journeyman plumber, and if the applicant successfully passes the examination as prescribed by the said board, then a state license shall be issued to such applicant for such license, authorizing him to engage in the business and occupation of a master plumber or journeyman plumber, as the case may be, which license, when issued, shall authorize the holder thereof to carry on the business of a master plumber or a journeyman plumber, as the case may be, in any city or town in the State of Montana."

Duty to examine applicants for license.

Section 17. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 13, 1959.

CHAPTER 252

An Act to Amend Section 66-1301, Revised Codes of Montana, 1947, Replacement Volume 4, by Providing a New Definition of the Practice of Optometry and to Amend Section 66-1302, Revised Codes of Montana, 1947, Replacement Volume 4, Relating to Provisions Regulating the Practice of Optometry by Amending Paragraph 9 of Said Section Relating to the Work of Optical Mechanics; by Amending Paragraphs 10 and 11 Relating to Terminology and by Adding Thereto a New Paragraph 12 to Said Section Relating to the Fitting of Contact Lenses; and to Amend Section 66-1305, Revised Codes of Montana, 1947, Replacement Volume 4, Relating to Examinations by the Board of Examiners in Optometry, Providing That Said Board May Accept the Grades of an Applicant Received in Written Examinations by the National Board of Examiners in Optometry and Relating to a Change in Terminology Concerning Accreditation; and to Amend Section 66-1307, Revised Codes of Montana, 1947, Replacement Volume 4, Relating to Registration Fees by Increasing Said Fee from Ten Dollars to Twenty Dollars Per Year; and to Amend Section 66-1311, Revised Codes of Montana, 1947, Replacement Volume 4, Relating to Compensation of Examiners by Increasing Said Compensation from Fifteen Dollars to Twenty-five

Dollars Per Day; and to Amend Section 66-1316, Revised Codes of Montana, 1947, Replacement Volume 4, by Extending the Exemption to Said Act to Certain Opticians and Certain Commissioned Officers of the Armed Forces and to Amend Chapter 13 of Title 66 of the Revised Codes of Montana, 1947, Replacement Volume 4, by Adding Thereto a New Section to be Known by Section 66-1317, Prohibiting Discrimination by Public Agencies; Providing for a Savings Clause; and Repealing All Laws in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-1301 of the Revised Codes of Montana, 1947, replacement volume 4, be, and the same is hereby amended to read as follows:

Practice of optometry defined.

"66-1301. **Practice of optometry defined.** The practice of optometry *is the profession constituting the art and science of visual care and is hereby defined to be any one of the following acts:*

Examination and diagnosis for visual care.

1. The optometric examination or optometric diagnosis of all of those physiological or anatomical parts or functions which consummate the process of human vision to ascertain the presence therein of abnormal conditions or functions which may be optometrically diagnosed, corrected, remedied or relieved.

Optometric means.

2. The employment of any optometric means, excluding the use of drugs or surgery, for the purpose of detecting any condition of the process of vision, or the effects of any condition of the process of vision, which may have any significance in a complete optometric diagnosis.

Application of prescribed devices—excluding drugs or surgery.

3. The application or prescription of ophthalmic lenses, contact lenses, prisms, orthoptics, visual training, any physical, mechanical, or physiological therapy, and the furnishing or application of any prosthetic or thereapeutic devices for the correction or relief of visual anomalies excluding the use of drugs or surgery."

Amending clause.

Section 2. That section 66-1302 of the Revised Codes of Montana, 1947, replacement volume 4, be, and the same is hereby amended to read as follows:

"66-1302. **Provisions regulating practice of optometry.** It shall be unlawful for any person:

Provisions regulating practice.

Certificate of registration required—unlawful acts.

1. To practice optometry in the State of Montana unless he shall first have obtained a certificate of registration, in the manner hereinafter provided, and filed the same or a certified copy thereof with the county clerk and recorder of the county of his residence, excepting such persons who at the present time are regularly registered optometrists and possess a valid, unrevoked certificate of registration; or

To sell or barter.

2. To sell or barter, or offer to sell or barter any certificate of registration issued by the state board of optometry; or

To purchase or procure.

3. To purchase or procure by barter any such certificate of registration with intent to use the same as evidence of the holder's qualification to practice optometry; or

To alter.

4. To alter with fraudulent intent in any material regard such certificate of registration; or

To use false certificate.

5. To use or attempt to use any such certificate of registration which has been purchased, fraudulently issued, counterfeited or materially altered as a valid certificate of registration; or

To use false name.

6. To practice optometry under a false or assumed name; or

False statements.

7. To wilfully make any false statement in a material regard in any application for an examination before the state board of optometry or for a certificate of registration; or

To advertise.

8. To advertise by displaying a sign or by otherwise holding himself out to be an optometrist without having at the time of so doing a valid unrevoked certificate of registration; or

To replace ophthalmic lenses.

Exception—optical mechanic.

9. To replace or duplicate ophthalmic lenses with or without a prescription or to dispense ophthalmic lenses from prescriptions, without having at the time of so doing a valid, unrevoked certificate of registration as an optometrist; provided, however, that the provisions hereof shall not be construed so as to prevent an optical mechanic from doing the merely mechanical work *on an ophthalmic lens which is ordered on a prescription signed by a duly licensed*

optometrist and is dispensed only by said optometrist or a person employed by said optometrist and who does so in the office of and under the direct personal supervision of an optometrist; or

To measure for purpose of fitting ophthalmic lenses.

10. To take or make any measurements for the purpose of fitting or adapting ophthalmic lenses to the human eye, without having at the time of so doing a valid, unrevoked certificate of registration; and any person who shall take or make any measurements or use any mechanical device whatsoever for such purpose or who shall in the sale of spectacles or eye-glasses or lenses use, in the testing of the eyes therefor, lenses other than the lenses actually sold, shall be deemed to be practicing optometry within the meaning thereof; provided, that nothing in this section shall apply to the prescriptions of qualified optometrists when sent to a recognized optical *laboratory.*

To advertise examination or services.

11. To advertise at a price, or any stated terms of such a price, or as being free, any of the following: The examination or treatment of the eyes; the furnishing of optometrical services, or the furnishing of a lens, lenses, *contact lens, contact lenses,* glasses, or the frames or fitting thereof.

Exemption—goggles, sun-glasses, protective devices.

The provision of this subdivision does not apply to the advertising of goggles, sun-glasses, colored glasses, or occupational eye protective devices, provided the same are so made as not to have refractive values and are not advertised in connection with the practice of optometry or of any professional service.

To fit contact lenses.

12. To adapt any lens to direct contiguous contact to the human eyeball without having at the time of so doing a valid, unrevoked certificate as an optometrist."

Amending clause.

Section 3. That section 66-1305 of the Revised Codes of Montana, 1947, replacement volume 4, be, and the same is hereby amended to read as follows:

Examination of applicants, admission to practice, nonresidents.

"66-1305. **Examinations — Admission to practice — nonresidents.** 1. The board of examiners shall make rules and regulations relative to and governing the qualifications of all applicants for certificates of registration as optometrists not inconsistent with the provisions of this act and if the applicant does not meet the requirements of such rules and regulations, then the applicant will not be eligible to take an examination to practice optometry in this state. If the applicant meets the requirements of such rules and regulations, said applicant, before beginning to practice optometry in this state, must pass an examination given by and conducted before said board of examiners. All examinations shall be practical in character and designated to ascertain the applicant's fitness to practice the profession of optometry and shall be conducted in the English language. The board shall, from time to time, publish and distribute the examination requirements for a certificate to practice optometry in the State of Montana. *The board may accept the grades an applicant has received in the written examinations given by the national board of examiners in optometry.*

Qualifications.

2. No person shall be eligible to take said examination who is not 21 years of age, and who is not a citizen of the United States of America, and who is not of good moral character.

Education.

3. On and after July 1st, 1925, no person shall be eligible to take said examination unless he shall have certificates of graduation from an accredited high school and from a school of optometry wherein the practice and science of optometry is taught in a course of study covering eight semesters, or four years, of actual attendance and which school *is accredited* by the international association of boards of examiners in optometry. In lieu of said certificates of graduation an applicant for examination may, with like effect, furnish an affidavit that he has practiced optometry exclusively for a period of at least six years in some other state or states.

Application fee.

4. Every person desiring to be examined in optometry shall file an application in the manner prescribed by said board at least four weeks before the examination shall be held, and a fee of twenty-five dollars ($25.00) shall accompany said application.

Fee for certificate of registration.

5. Every person successfully passing said examination shall be registered in the board register, which shall be kept by the secretary of said board, and upon the payment of a fee of ten dollars ($10.00) shall receive a certificate of registration signed by the members of said board.

Admission of nonresident.

6. In case an applicant for a certificate of registration has been admitted to practice optometry in any state, and has secured an average of seventy-five per cent (75%) in his examination in such other state, he may, at the discretion of the said board, be granted a certificate to practice his profession in Montana, without examination, upon his payment of all fees, provided the state from which said applicant comes offers equal privileges to applicants for certificates of registration from this state.''

Amending clause.

Section 4. That section 66-1307 of the Revised Codes of Montana, 1947, replacement volume 4, be, and the same is hereby amended to read as follows:

Renewal fees.

''66-1307. **Renewal of registration — Revocation — Fees.** Every registered optometrist who desires to continue the practice of optometry in this state shall annually on or before the second day of July of each year pay to the secretary of said board a renewal fee not to exceed the sum of *twenty dollars ($20.00)* in return for which a renewal of registration shall be issued. *The board may use not to exceed ten dollars ($10.00) from each renewal fee for the purpose of presenting to registered optometrists at least one annual educational program.* If any person shall fail or neglect to procure his annual renewal of registration, his certificate of registration shall be revoked by said board; provided, however, that no certificate of registration shall be revoked without ninety days' notice having been given to the delinquent, who within such period shall have the right to the renewal of his certificate of registration on the payment of the renewal fee with a penalty of twenty-five dollars ($25.00).''

Revocation.

Amending clause.

Section 5. That section 66-1311 of the Revised Codes of Montana, 1947, replacement volume 4, be, and the same is hereby amended to read as follows:

Compensation of examiners.

''66-1311. **Compensation of examiners — Report.** Out of the funds coming into the possession of said board, each member thereof may receive as compensation the sum of *twenty-five dollars ($25.00)* and necessary expenses for each day actually engaged in the duties of his office. Such sums shall be paid from the fees received by said board under the provisions of this act, and no part of the salary or other expenses of the board shall ever be paid out of the state treasury. All moneys received in excess of said expenses, as above provided for, shall be held by the secretary as a special fund for meeting expenses of said board, and carrying out the provisions of this act, and he shall give such bonds as the board shall from time to time direct, and the secretary of said board shall make an annual report of its proceedings to the governor on the first Monday in January of each year, which report shall contain an account of all moneys received and disbursed by them pursuant to this act.''

Amending clause.

Section 6. That section 66-1316 of the Revised Codes of Montana, 1947, replacement volume 4, be, and the same is hereby amended to read as follows:

Act does not apply to physicians, surgeons, optical mechanics, armed forces officers, and sellers not assuming skill.

''66-1316. **Act not to apply to physicians and surgeons.** Nothing in this act shall be construed to apply to physicians and surgeons authorized to practice under the laws of the State of Montana *nor to an optician performing the required mechanical work under an order or prescription signed by a duly licensed physician or surgeon, nor to commissioned officers of the armed forces of the United States performing functions of this act in the line of their regular duty,* nor to persons who sell spectacles or eye-glasses without attempting to traffic upon assumed skill in adapting them to the eye.''

Amending clause.

Section 7. That chapter 13, title 66, Revised Codes of Montana, 1947, replacement volume 4, be, and the same is hereby amended by adding thereto a new section to be known as section 66-1317 and reading as follows:

Duty of state agencies to accept and pay for required services of licensed optometrists.

''Section 66-1317. **Public agencies — discrimination prohibited.** All agencies of the state and its subdivisions administering relief, public assistance, public welfare assistance, social security health insurance or other health service under the laws of this state shall accept the services of licensed optometrists for any service, covered by their licenses, rendered to any person receiving benefits from said agents or bodies and shall pay for such services in the same manner as other ocular practitioners rendering similar services. None of the said governmental agencies or agents, officials or employees thereof, including the public schools, shall, in the performance of their duties, discriminate in any way among licensed ocular practitioners."

Severability.

Section 8. The provisions of this act shall be severable and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect.

Repealing clause.

Section 9. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1959.

CHAPTER 253

An Act to Amend Sections 84-4901, 84-4903, 84-4910, as Amended by Chapter 233, Laws of 1957, 84-4911, 84-4914, as Amended by Chapter 227, Laws of 1957, 84-4915, 84-4920.1, 84-4937, 84-4942, Revised Codes of Montana, 1947, All Relating to State Individual Income Taxes and Withholding of Individual Income Tax; Repealing All Acts and Parts of Acts in Conflict Herewith and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-4901, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Income tax definitions.

"84-4901. **Income tax — definitions.** For the purpose of this act unless otherwise required by the context:

"Board."

(1) The word 'board' means the state board of equalization.

"Taxpayer."

(2) The word 'taxpayer' includes any person or fiduciary, *resident or nonresident,* subject to a tax imposed by this act, and does not include corporations.

"Taxable year."

(3) The words 'taxable year' mean the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this act, and include the period for which such return is made if made for a fractional part of such year under

the provisions of this act or under regulations prescribed by the board. The words 'fiscal year' mean an accounting period of twelve (12) months, ending on the last day of any month other than December thirty-first. "Fiscal year."

(4) The word 'fiduciary' means a guardian, trustee, executor, administrator, receiver, conservator, or any person whether individual or corporate, acting in any fiduciary capacity for any person, trust or estate. "Fiduciary."

(5) The word 'paid' for the purposes of the deductions and credits under this act means paid or accrued or paid or incurred, and the terms 'paid or incurred' and 'paid or accrued' shall be construed according to the method of accounting upon the basis of which the net income is computed under this act. The term 'received' for the purpose of computation of net income under this act, means received or accrued and the term 'received or accrued' shall be construed according to the method of accounting upon the basis of which the net income is computed under this act. "Paid." "Paid or incurred." "Paid or accrued." "Received." "Received or accrued."

(6) The word 'resident' applies only to natural persons and includes for the purpose of determining liability to the tax imposed by this act with reference to the income of any taxable year, any person domiciled in the State of Montana, and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere. "Resident."

(7) The word 'dividend' means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. 'Stock dividends' means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings. "Dividend."

(8) The words 'foreign country' or 'foreign government' means any jurisdiction other than one embraced within the United States. The words 'United States' include the states, the *territory* of Hawaii, and the District of Columbia. "Foreign country." "Foreign government." "United States."

(9) The words 'information agents' include all individuals, corporations, associations and partnerships, in "Information agents."

whatever capacity acting, including lessees, or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state, or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits and income with respect to which any person or fiduciary is taxable under this act.

"Net income."

(10) The term 'net income' means the gross income of a taxpayer less the deductions allowed by this act.

"Taxable income."

(11) The term 'taxable income' means the gross income of a taxpayer less the deductions and exemptions provided for in this act."

Amending clause.

Section 2. That section 84-4903, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Tax on nonresident.

"84-4903. **Tax on nonresident.** *(a)* A like tax is imposed upon every person not resident of this state which tax shall be levied, collected and paid annually, at the rates specified in section 84-4902, with respect to his entire net income as herein defined from all property owned and from every business, trade, profession, or occupation carried on in this state.

Nonresident officer or director of corporation.

(b) In the case of a nonresident officer or director of a corporation doing business in this state, such salaries, fees, or other compensation of such officer or director paid to him by such corporation shall be treated as income from sources within this state to the extent such salary, fee or other compensation is claimed as a deduction in computing income for Montana corporation license tax purposes, whether or not any personal services have been performed by such nonresident officer or director within this state."

Amending clause.

Section 3. That section 84-4910, Revised Codes of Montana, 1947, as amended by chapter 233, laws of 1957, be, and the same is hereby amended to read as follows:

Exemptions. Personal exemption.

"84-4910. **Exemptions.** (a) Allowance of *personal exemption.* In the case of an individual, the exemptions provided by this section shall be allowed as deductions in computing taxable income.

Taxpayer and spouse.

(b) Taxpayer and spouse. An exemption of six hundred dollars ($600.00) for the taxpayer; and an additional exemption of six hundred dollars ($600.00) for the spouse of the taxpayer, if the spouse, for the calendar year in which the taxable year of the taxpayer begins, is not the dependent of another taxpayer.

Additional exemption taxpayer or spouse aged 65 or over.

(c) Additional exemption for taxpayer or spouse aged sixty-five (65) or more. (1) For taxpayer. An additional exemption of six hundred dollars ($600.00) for the taxpayer if he has attained the age of sixty-five (65) before the close of his taxable year.

Spouse aged 65.

(2) For spouse. An additional exemption of six hundred dollars ($600.00) for the spouse of the taxpayer if the spouse has attained the age of sixty-five (65) before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, is not the dependent of another taxpayer.

Exemption for blindness taxpayer.

(d) Additional exemption for blindness of taxpayer or spouse. (1) For taxpayer. An additional exemption of six hundred dollars ($600.00) for the taxpayer if he is blind at the close of his taxable year.

Spouse.

(2) For spouse. An additional exemption of six hundred dollars ($600.00) for the spouse of the taxpayer if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins is not the dependent of another taxpayer. For the purpose of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer; except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

Blindness defined.

(3) Blindness defined. For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

Exemption for dependents.

(e) Additional exemptions for dependents. (1) In general. An exemption of six hundred dollars ($600.00) for each dependent:

With income less than $600.

(A) Whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than six hundred dollars ($600.00), or

Child under 19 or student.

(B) Who is a child of the taxpayer and who (i) has not attained the age of nineteen (19) at the close of the calendar year in which the taxable year of the taxpayer begins, or (ii) is a student.

No exemption for dependent making joint return with spouse.

(2) Exemption denied in case of certain married dependents. No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

Child defined.

(3) Child defined. For purposes of paragraph (1) (B), the term 'child' means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

Student defined.

(4) Student and educational institution defined. For purposes of paragraph (1) (B) (ii) the term 'student' means an individual who during each of five (5) calendar months during the calendar year in which the taxable year of the taxpayer begins.

(A) Is a full time student at an educational institution; or

(B) Is pursuing a full time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state.

Educational institution defined.

For the purposes of this paragraph, the term 'educational institution' means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

Dependent defined.

(f) General definition. For purposes of this section, the term 'dependent' means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer:

(1) A son or daughter of the taxpayer, or a descendent of either,

(2) A stepson or stepdaughter of the taxpayer,

(3) A brother, sister, stepbrother, or stepsister of the taxpayer,

(4) The father or mother of the taxpayer, or an ancestor of either,

(5) A stepfather or stepmother of the taxpayer,

(6) A son or daughter of a brother or sister of the taxpayer,

(7) A brother or sister of the father or mother of the taxpayer,

(8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer,

(9) An individual who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer, and is a member of the taxpayer's household, or

(10) An individual who

(A) is a descendent of a brother or sister of the father or mother of the taxpayer,

(B) For the taxable year of the taxpayer receives institutional care required by reason of a physical or mental disability, and

(C) before receiving such institutional care, was a member of the same household as the taxpayer.

(g) Rules relating to general definition. For purposes of this section:

(1) The terms 'brother' and 'sister' include a brother or sister by the half blood.

(2) In determining whether any of the relationships specified in subsection (a) or paragraph (1) of this sub-

section exists, a legally adopted child of an individual shall be treated as a child of such individual by blood.

(h) Determination of marital status. For purposes of this part

(1) The determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

(2) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

Proration of exemption of nonresident.

(i) Proration of exemption in the case of a nonresident taxpayer or a taxpayer changing residence status.

(1) The exemption shall be prorated on the ratio the Montana adjusted gross income bears to the federal adjusted gross income."

Amending clause.

Section 4. That section 84-4911, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Income tax involving partnership.

"84-4911. **Income tax involving partnership — Partnership — Partnership statements required.** Individuals carrying on a business in partnership shall be liable for income tax only in their individual capacity. There shall be included, in computing the net income of each partner, his distributive share, whether distributed or not, of the net income of the partnership for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis for which the net income of the partnership is computed, then there shall be included his distributive share of the net income of the partnership for any accounting period of the partnership ending within the fiscal or calendar year upon the basis of which the partner's net income is computed. Taxpayers who are members of partnerships *are* required by the department *to furnish a copy of their federal partnership return."*

Amending clause.

Section 5. That section 84-4914, Revised Codes of Montana, 1947, as amended by chapter 227, Laws of 1957, be, and the same is hereby amended to read as follows:

"84-4914. **Returns and payment of tax — Penalty and interest — Refunds — Credits.** (1) Every *taxpayer* having a gross income for the taxable year of six hundred dollars ($600.00) or over, if single or if married and not living with or supporting a husband or wife or family, or of twelve hundred dollars ($1,200.00) or over, if married and living with husband or wife, shall be liable for an income tax return, to be filed on such forms and according to instructions set forth by the board.

Returns and payment of tax.

If any such *taxpayer* is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such *taxpayer*.

Filing of return.

(2) All taxpayers, including but not limited to those subject to the provisions of sections 84-4939, and 84-4943 as amended shall compute the amount of income tax payable and shall at the time of filing the return required by this act, pay to the board any balance of income tax remaining unpaid after crediting the amount withheld as provided by section 84-4943 as amended and/or any payment made by reason of an estimated tax return provided for in section 84-4939 as amended, provided however, the tax so computed is greater by one dollar ($1.00) than the amount withheld and/or paid by estimated return as provided in this act.

Refund.

If the amount of tax withheld and/or payment of estimated tax exceeds by more than one dollar ($1.00) the amount of the income tax as computed, the taxpayer shall be entitled to a refund of the excess.

Board shall verify.

(3) As soon as practicable after the return is filed, the board shall examine and verify the tax.

Payment of deficiency.

(4) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the board within thirty (30) days after notice of the amount of the tax as computed with interest added at the rate of one per centum (1%) per month or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within thirty (30) days after the first notice of the amount is mailed to the taxpayer.

Penalty.

If payment is not made within thirty (30) days or if the understatement is due to negligence on the part of the taxpayer, but without fraud, there shall be added to the amount of the deficiency five per centum (5%) thereof, provided, however, that no deficiency penalty shall be less than two dollars ($2.00). Interest will be computed at the rate of one per centum (1%) per month for each month or fraction thereof on the additional assessment with penalty added. Except unless otherwise expressly provided in this subdivision, the interest shall in all cases be computed from the date the return and tax was originally due to the date of payment.

Interest.

If the time for filing a return is extended, the taxpayer shall pay in addition, interest thereon at the rate of six per centum (6%) per annum from the time when the return was originally required to be filed to the time of payment."

Amending clause.

Section 6. That section 84-4915, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Effect of changing residence.

"84-4915. *Exemption allowed nonresident.* **Effect of changing resident status.** If a taxpayer changes his status from that of resident to that of nonresident, or from that of nonresident to that of resident, during the taxable year, he shall file a return covering the fraction of the year during which he was a resident. The exemptions provided in section 84-4910 shall be prorated *on the ratio the Montana adjusted gross income bears to federal adjusted gross income.* A Montana citizen moving out of the state; abandoning his residence in the state and establishing a residence elsewhere, must file a return on the fractional basis. If he obtains employment outside the state, without abandoning his Montana residence then income from such employment is taxable in Montana."

Amending clause.

Section 7. That section 84-4937, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Credit allowed for foreign taxes.

"84-4937. **Credit allowed resident taxpayers for income taxes imposed by foreign states.** Subject to the following conditions, residents of this state shall be allowed a credit against the taxes imposed by this act for income taxes imposed by and paid to another state or country on income taxable under this act.

(1) The credit shall be allowed only for taxes paid to such other state on income derived from sources within such state which is taxable under the laws of such state or country irrespective of the residence or domicile of the recipient;

(2) The credit shall not be allowed if such other state or country allows residents of this state a credit against the taxes imposed by such state for taxes paid or payable under this act;

(3) The allowable credit shall be computed by formula to be prescribed by the board."

Formula prescribed by board.

Section 8. The provisions of this Act shall be severable and if any of its sections, provisions, exceptions, clauses or parts be held unconstitutional or void the remainder of this Act shall continue in full force and effect.

Severability.

Section 9. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 10. The provisions of this act shall apply to taxable years ending after June 30, 1959.

Applies to taxable years after June 30, 1959.

Approved March 13, 1959.

CHAPTER 254

An Act Permitting Actions on Tort Claims Against the State of Montana to the Extent of the Insurance Coverage Carried by the State of Montana; Describing the Practice and Procedure Therefor; Providing That Where Insurance is Applicable, Settlement Compromise or Judgment Shall be Subject to Such Insuring Provisions; Containing a Repealing Clause and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

District courts have exclusive jurisdiction of claims against state to extent of insurance coverage for injury to persons and property.

Section 1. The district courts of the State of Montana shall have exclusive jurisdiction to hear, determine, and render judgment to the extent of the insurance coverage carried by the State of Montana on any claim against the State of Montana for money only, accruing on or after the passage and approval of this act, on account of damage to or loss of property, or on account of personal injuries or death caused by the negligence or wrongful act or omission of any employee of the State of Montana, while acting within the scope of his office or employment, under circumstances where the State of Montana, if a private person, would be liable to the claimant for such damage, loss, injury or death, in accordance with the law of the State of Montana. The State of Montana shall be liable in respect of such claims to the said claimant in the same manner and to the same extent as a private individual under like circumstances, except the State of Montana shall not be liable for interest prior to judgment, nor for punitive damages. Cost shall be allowed in all courts to the successful claimant, to the same extent if the State of Montana were a private litigant, except that such costs shall not include attorneys' fees.

Liability of state same as private person except no interest, punitive damages or attorneys' fees.

Forms.

Section 2. In actions under the provisions of this act, the forms of process, writs, pleadings and motions, and the practice and procedure shall be the same as if the State of Montana were a private person, and the same provisions for counterclaim and setoff, and for interest upon judgment shall be the same as if the State of Montana were a private person.

Right of appeal.

Section 3. The right of appeal from final judgment in the district court shall be governed by the same rules of practice and procedure that exist for private persons, except the State of Montana shall at no time be required to post a bond either on appeal or at any other time during the said litigation.

Service of process on attorney general.

Section 4. The attorney general of the State of Montana is hereby designated as the person upon whom all process shall be served, and he shall have full charge of such litigation on behalf of the State of Montana, and by and with the consent of the board of examiners of the State of Montana, he is authorized to arbitrate, compromise or settle any claim cognizable under this act, after the institution of any suit thereon, and further, with the approval of the court in which said suit is pending.

Final judgment.

Section 5. A final judgment shall be the obligation of the State of Montana, and shall be paid in the same manner as other claims against the state.

Section 6. Where collectible insurance coverage from any insurer is available to pay on behalf of, or to indemnify, the State of Montana, for any settlement, compromise or judgment under this act, any cause of action shall be subject to the terms and conditions of such policy or policies of insurance applicable; and in such event the State of Montana shall be immune under this act from any claim or demand, including judgments, in excess of such collectible insurance.

Insurance coverage makes state immune from claims in excess.

Section 7. Nothing herein contained shall be construed to affect any cause of action arising under the workmen's compensation act.

Does not affect claims under workmen's compensation act.

Section 8. This act shall be in full force and effect from and after the date of its passage and approval.

Effective immediately.

Section 9. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 13, 1959.

CHAPTER 255

An Act Authorizing and Empowering the Supreme Court of the State of Montana to Recommend Rules of Pleading, Practice and Procedure in Civil Cases in the Courts of the State of Montana, for the Purpose of Simplifying Judicial Proceedings and Promoting the Speedy Determination of Litigation Upon Its Merits; Creating a Commission to Prepare Suggested Rules of Procedure of the State of Montana and Prescribing the Membership and Powers and Duties of Said Commission; Providing for Employment of a Secretary-Stenographer of the Commission and Employment of Research Agencies, if Deemed Necessary; Providing for the Payment of Actual Travel and Other Expenses Incurred by Members of Said Commission in the Discharge of Their Duties; Providing That Such Recommended Rules of Pleading, Practice and Procedure Shall be Submitted to the Thirty-seventh Legislative Assembly of the State of Montana for Its Consideration; Repealing All Acts and Parts of Acts in Conflict Herewith and Providing for an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose to adopt federal rules of civil procedure as far as practicable.

Section 1. The intent and purpose of this act is to make possible the adoption of the Federal Rules of Civil Procedure so far as seems presently practicable to the existing Montana Code to the end of uniformity, but not at the expense of existing procedural statutory rules that may be better for Montana state practice.

Supreme court to appoint commission of 11 members to prepare rules of civil procedure of the State of Montana.

Section 2. That within thirty (30) days following the adjournment of this legislative assembly, the supreme court of Montana shall appoint a commission of eleven (11) persons, which commission shall meet and organize itself within thirty (30) days following appointment; and which commission shall make a complete study, consider and finally prepare Rules of Civil Procedure of the State of Montana, which rules shall be comprehensive in scope, except as limited by the statement of intent set forth in Section 1 of this act.

Qualification of members.

Section 3. The commission shall be composed of the chief justice of the supreme court of the State of Montana, or an associate justice of the supreme court designated by the chief justice, three (3) judges from the district courts of the state, and seven (7) lawyers. At least five (5) of these lawyer-members of the commission shall be members of The Montana Bar Association and all of the lawyers designated shall be lawyers actively practicing law in the State of Montana or members of the faculty of the law school of the University of Montana. The judges so selected shall include the president of the Montana Judges' Association and shall be from a list of suggested members submitted to the supreme court by the president of the Montana Judges' Association. The lawyers so selected shall include the president of The Montana Bar Association and shall be from a list of suggested members submitted to the supreme court by the president of The Montana Bar Association. The supreme court shall have the power to provide for terms of office, removals from office, filling of vacancies and changes in personnel of the commission.

Commission to prepare proposed rules and submit copies to bench and bar.

Section 4. The commission so appointed shall prepare proposed rules of pleading, practice and procedure, and shall distribute copies to the bench and bar of the state for their consideration and suggestions as they may submit to the commission.

Tentative final draft to supreme court.

Section 5. The commission shall within six (6) months after distribution of copies of the proposed rules submit the tentative final draft of proposed rules of civil procedure for Montana, to the supreme court for approval.

Notice to bench and bar.

Hearing.

Section 6. The submission of the tentative final draft to the supreme court will be noticed by the court by mailing notice of hearing to all district judges of the state and all attorneys licensed to practice in the Montana courts, as shown by the records of the clerk of the supreme court, and heard by it within ninety (90) days after submission by the commission, and all interested persons and organizations may appear that day by petition specifying their suggestions or objections thereon.

Rules of court not in conflict.

Section 7. Any district court and the supreme court, may adopt rules of court governing its practice so long as such rules are not in conflict with the rules promulgated by the supreme court of the State of Montana, and duly adopted by the legislature in accordance with this act, or with valid statutes of the State of Montana.

Does not affect practice rules of commissions and boards.

Section 8. This act shall not affect the power of any constitutional or statutory commission or board to make rules governing its practice.

Adoption by legislature.

Section 9. Any rules promulgated under this act shall be effective only upon adoption by the legislature.

Right of supreme court to change.

Section 10. The supreme court of this state shall have the right to suggest changes, amendments and additional rules of civil procedure of the State of Montana from time to time. Such changes, amendments, and additional rules shall be accomplished by the procedure as set out in this act.

Power of commission to employ.

Section 11. The said commission may from time to time employ a secretary-stenographer, as it deems necessary, to assist in its work, and shall fix the compensation of such secretary-stenographer. It shall further have the power to employ the services of any research agency which it deems necessary in the discharge of its duties.

Reimbursement.

Section 12. Members of said commission shall serve without compensation, but shall be reimbursed for actual travel and other expenses incurred in the discharge of their duties, including attendance at meetings.

Chairman, officers, rules and records.

Section 13. The said commission shall from time to time elect one of its members as chairman, and may from time to time elect such other officers from among its membership as the commission may deem desirable. The commission is empowered to adopt rules for its own procedure, and to make all arrangements for its meetings, and to carry out the purpose for which it is created. The commission is directed to keep accurate records of its activities and proceedings.

Savings clause.

Section 14. If any sentence, section, clause or phrase of this act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this act. The legislative assembly of the State of Montana hereby declares that it would have passed this act irrespective of the fact that any one or more sections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Repealing clause.

Section 15. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 16. This act shall be in full force and effect from and after its passage and approval.

Approved March 13, 1959.

CHAPTER 256

An Act to Amend Section 32-1201, Revised Codes of Montana, 1947, Relating to Definitions, by Defining Supervisor and Board, and to Amend Section 32-1202, Revised Codes of Montana, 1947, Relating to Accidents Involving Death or Personal Injury, by Substituting the Word "Board" for the Word "Registrar", by Authorizing the Board to Revoke License or Permit to Drive or Any Non-Resident Operating Privilege for Violation of This Section; and to Amend Section 32-

1206, Revised Codes of Montana, 1947, Relating to Duty of Drivers Upon Striking Fixtures or Other Property Upon the Highway, by Requiring Drivers of Vehicles Involved in Accidents to Report Damage to Property Owners; and to Amend Section 32-1207, Revised Codes of Montana, 1947, Relating to Immediate Reporting of Accidents by Requiring Drivers of Vehicles Involved to Give Immediate Notice of Accidents by Quickest Means of Communication; and to Amend Section 32-1208, Revised Codes of Montana, 1947, Relating to Written Reports of Accidents by Adding the Word ''Bodily'' Before the Word ''Injury'' of Subsection (a) of This Section by Increasing Property Damage from Twenty-five Dollars ($25.00) to One Hundred Dollars ($100.00) When Written Reports of Accidents are Required, by Substituting the Word ''Board'' for the Word ''Supervisor'', Providing That the Report Will Contain Sufficient Information to Determine Compliances with Safety Responsibility Statutes, Providing That the Board May Require Drivers of Vehicles Involved in Accidents to Submit Additional Information and Providing That Law Enforcement Officers Who Investigate Accidents Must Submit a Written Report of Such to the Board Within Ten (10) Days; and to Amend Section 32-1209, Revised Codes of Montana, 1947, Relating to When Driver is Unable to Give Immediate Notice or Submit Written Report by Exempting Drivers Who are Physically Incapable of Giving Immediate Notice or Submitting Such Report, During Such Period of Incapacity, and Providing That an Occupant Shall Give Immediate Notice and Make or Cause to be Made the Written Report Not Made by the Driver, and Providing That When the Incapacitated Driver is Not the Owner of the Vehicle, the Owner of the Vehicle Shall Make Such Written Report Not Made by the Driver of the Vehicle; Prohibiting Any Person Making Reports from Giving False Information and Providing Penalty for Violation of Such Section; and to Amend Section 32-1210, Revised Codes of Montana, 1947, Relating to Accident Report Forms, by Substituting the Word ''Board'' for the Word ''Supervisor''; Providing That the Board May Suspend the License or Other Driving Privilege of Persons Failing to Report Accidents and Providing for Fines for Persons Who Fail to Submit Written Reports of

Accidents; and to Amend Section 32-1211, Revised Codes of Montana, 1947, Relating to Coroners' Responsibility to Report Traffic Accidents, by Requiring Coroners to Report Traffic Accidents to Board Each Month; and to Amend Section 32-1213, Revised Codes of Montana, 1947, Relating to Confidential Use of Accident Reports by Substituting the Word "Board" for the Word "Supervisor", Providing That Financial Responsibility Reports Submitted by the Persons Who are the Drivers or the Owners of Motor Vehicles are Confidential; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 32-1201, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Definitions.

"32-1201. **Definitions.** The following words and phrases used in this act shall, for the purpose of this act, have the meanings respectively ascribed to them in this act.

Registrar.

(a) Registrar. The registrar of motor vehicles of this state.

Supervisor.

(b) Supervisor. *The supervisor of the Montana highway patrol.*

Board.

(c) Board. The Montana highway patrol board of this state, acting through its duly authorized officers and agents."

Amending clause.

Section 2. That Section 32-1202, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"32-1202. **Accidents involving death or personal injuries.**

Stop at scene of accident.

(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of section 32-1204. Every such stop shall be made without obstructing traffic more than is necessary.

Penalty for failure to stop.

(b) Any person failing to stop or to comply with said requirements under such circumstances shall upon conviction be punished by imprisonment for not less than thirty (30) days, nor more than one (1) year, or by a fine of not less than one hundred dollars ($100.00) nor more than five thousand dollars ($5,000.00), or by both such fine and imprisonment.

Revocation of driver's license.

(c) The *Board* shall revoke the license *or permit to drive of any resident and any nonresident's operating privilege of any person, so convicted for the period prescribed in section 31-149, Revised Codes of Montana, 1947, as amended.*"

Amending clause.

Section 3. That section 32-1206, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duty of driver striking fixtures or property on highway.

"32-1206. **Duty upon striking fixtures,** *or other property* **upon a highway.** The driver of any vehicle involved in an accident resulting only in damage to fixtures *or other property* legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license and shall make report of such accident when and as required in section 32-1208."

Amending clause.

Section 4. That section 32-1207, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duty of driver to give notice of accident.

"32-1207. **Immediate** *notice* **of accidents.** The driver of a vehicle involved in an accident resulting in injury to or death of any person *or property damage to an apparent extent of one hundred dollars ($100.00) or more* shall immediately by the quickest means of communication give notice of such accident to the local police department if such accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the *highway patrol.*"

Amending clause.

Section 5. That section 32-1208, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Written report of accident.

"32-1208. **Written reports of accidents,** *additional information, form of report.* (a) The driver of a vehicle *which is in any manner* involved in an accident resulting in *bodily* injury to or death of any person or total property damage to an apparent extent of *one hundred dollars ($100),* or more shall within *ten (10) days* after such accident, forward a written report of such accident to the *board.*"

Additional information when required.

(b) *Additional information.* The *board* may require any driver of a vehicle involved in an accident, of which report must be made as provided in this section, to file supplemental reports whenever the original report is insufficient, and may require witnesses of accidents to render reports.

Written report of investigating officer.

(c) Every law enforcement officer who in the regular course of duty, investigates a motor vehicle accident, of which report must be made as required in this *act,* either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall within *ten (10) days* after completing such investigation, forward a written report of such accident to the *board.*"

Form of report to show safety responsibility.

(d) Form of report. The form of accident report required under section 32-1208, shall contain information sufficient to enable the department to determine whether the requirements for the deposit of security for safety responsibility are inapplicable by reason of the existence of insurance or other exceptions specified in this act."

Amending clause.

Section 6. That Section 32-1209, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Incapability.

"32-1209. **When driver unable to report.** *(a) An accident report is not required under this act from any person who is physically incapable of making such report during the period of such incapacity.*

Notice.

(b) Whenever the driver of a vehicle is physically incapable of *giving* an immediate *notice* of an accident as required in section 32-1207, and there was another occupant in the vehicle at the time of the accident capable of *doing so,* such occupant shall make or cause to be *given* the *notice* not *given* by the driver.

Written report.

(c) Whenever the driver is physically incapable of mak-

ing a written report of an accident as required in section 32-1208, and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within ten (10) days after learning of such accident, make such report not made by the driver."

False reports—penalty.

(d) False reports. Any person who gives information in reports as required in section 32-1208, or in this section, knowing or having reason to believe that such information is false shall be fined not more than five hundred dollars ($500.00) or imprisonment for not more than six (6) months, or both."

Amending clause.

Section 7. That section 32-1210, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Accident report forms.

"32-1210. **Accident report forms.** (a) The *board* shall prepare and upon request supply to police departments, coroners, sheriffs, garages and other suitable agencies or individuals, forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with references to a traffic accident the causes, conditions then existing, and the persons and vevehicles involved.

(b) Every accident report required to be made in writing shall be made on the appropriate form approved by the *board* and shall contain all of the information required therein unless not available."

Penalty for failure to report accident.

(c) Penalty. The board may suspend the license or permit to drive of any resident and any nonresident operating privilege of any person failing to report an accident as herein provided until such report has been filed. Any person convicted of failing to report an accident by the quickest means of communication or failing to forward a written report as required herein shall be deemed guilty of a misdemeanor and punished by a fine of not more than twenty-five dollars ($25.00)."

Amending clause.

Section 8. That section 32-1211, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Written report of coroners.

"32-1211. **Coroners to report.** Every coroner or other official performing like functions shall on or before the 10th day of each month report in writing to the *board* the death of any person within his jurisdiction during the preceding calendar month as the result of a *traffic* accident, *giving the time and place of the accident and the circumstances relating thereto.*"

Amending clause.

Section 9. That section 32-1213, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Reports confidential.

"32-1213. **Accident reports confidential.** (a) All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and shall be for the confidential use of the *board* or other state agencies having use for the records for accidental prevention purposes, *or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles,* except that the *board* may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.

Disclosure of identity.

Reports and information confidential except by person named therein.

(b) All accident reports and supplemental information filed in connection with the administration of the laws of this state relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection, nor shall copying of lists of such reports be permitted, except, however, that such reports and supplemental information may be examined by any person named therein or by his representative designated in writing.

Reports not evidence.

(c) No such report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the *board* shall furnish upon demand of any person who has, or claims to have, made such a report or upon the demand of any court, a certificate showing that a specified accident report has or has not been made to the *board* solely to prove a compliance or a failure to comply with the requirement that such a report be made to the *board.*"

Certificate on demand.

Section 10. That all acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 13, 1959.

CHAPTER 257

An Act to Amend Sections 84-5403 and 84-5409, Revised Codes of Montana, 1947, Relating to the Computation of Net Proceeds, Providing for Deduction of Improvements, Repairs and Betterments Over Ten Years; Providing New Improvements, Repairs and Betterments Reported to Assessor Before Deduction Allowed; Providing for Taxation and Payment of Royalty Interests; Providing for an Effective Date and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-5403, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Computation of net proceeds of mines.

"84-5403. **Net proceeds — How computed.** The state board of equalization shall calculate and compute from said returns the gross product yielded from such mine, and its gross value in dollars and cents for the year *covered by the statement,* and also shall calculate and compute the net proceeds in dollars and cents of said mine yielded to such person, corporation or association so engaged in mining which said net proceeds shall be ascertained and determined by subtracting from the value in dollars and cents of the gross product thereof the following, to-wit:

Royalties.

1. All royalty paid or apportioned in cash or in kind by the person, corporation or association so engaged in mining.

Expenditures.

2. All moneys expended for necessary labor, machinery and supplies needed and used in the mining operations and developments.

3. All moneys expended for improvements, repairs and betterments necessary in and about the working of the mine, *except as hereinafter provided.*

4. All moneys expended for costs of repairs and replacements of the milling and reduction works used in connection with the mine.

Depreciation.

5. Depreciation in the sum of six per cent (6%) of the assessed valuation of such milling and reduction works for the calendar year for which such return is made.

Transportation.

6. All moneys *actually* expended for transporting the ores, and mineral products or deposits from the mines to the mill or reduction works or to the place of sale, and for extracting the metals and minerals therefrom, and for marketing the product and the conversion of the same into money.

Insurance.

7. All moneys expended for fire insurance and workmen's compensation insurance, and for payments by mine operators to welfare and retirement funds when provided for in wage contracts between mine operators and employees.

Allowable deductions.

''In computing the deductions allowable for repairs, improvements and betterments to the mine, the state board of equalization shall compute and allow ten per cent (10%) of such cost each year for a period of ten (10) years.

Assessment.

''No moneys invested in mines or improvements shall be allowed as a deduction unless all machinery, equipment and buildings represented by such moneys shall be returned to the county assessor of the county in which such mine is located for assessment purposes, at the level of assessment of all other property in such county.

''No moneys invested in the mines and improvements during any year, except the year for which such statement is made, *and except as hereinbefore provided in this section,* shall be included in such expenditures; and such expenditures shall not include the salaries or any portion thereof, of any person or officer not actually engaged in the working of the mine or superintending the management thereof.''

Amending clause.

Section 2. That section 84-5409, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

''84-5409. **Taxation and payment on royalty interests.**

Taxation and payment on royalty interests.

At the time of transmitting net proceeds assessments the state board of equalization shall also transmit the royalty lists or schedules to the county *assessor* of each county in which such mines and mining claims are located and thereupon the county *assessor* shall prepare from such net proceeds and royalty assessments a tax roll which shall be by him furnished to the county treasurer on or before the *fifteenth day of September* following, upon which date said taxes shall be due and payable. Assessments of royalty on production of metals, and minerals other than petroleum and natural gas, shall be entered by the county *assessor* in the personal property assessment book in the name of the recipient or owner of such royalty. The county treasurer shall proceed to give full notice thereof to such recipient or royalty owner, and to collect the taxes thereon in the same manner as taxes on net proceeds of mines."

Applies to returns filed in 1959.

Section 3. The provisions of this act shall apply to the returns required to be filed in 1959 and for each year thereafter.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 13, 1959.

CHAPTER 258

An Act Amending the Following Sections, All Pertaining to County Water Districts, of the Revised Codes of Montana, 1947; Section 16-4508 Relating to the Qualifications and the Manner of Conducting Elections of Electors; Section 16-4520 Relating to Publication of Notice of Election on Bonded Indebtedness and Qualification of Electors; Section 16-4527 Relating to the Levy and Payment of Water District Taxes; Permitting Corporations and Individuals, Not Residents of the District But Owning Taxable Real Property Therein, to Vote at Water District Elections; Directing Publication of Notices in a Newspaper Within the County. Rather Than Within the District; Striking the Words

"... Where the Water District is Located More Than One (1) Mile from the Boundary of an Incorporated City or Town ..." and Providing in All County Water Districts for Optional Methods of Assessing Water District Taxes; Providing for a Hearing and Notice Thereof Before Water District Taxes Are Levied; Providing for Payment of Taxes Under Protest and Suit for Recovery Thereof; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing a Saving Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-4508, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

General law applies to water district elections.

Proviso—vote of corporation.

"16-4508. **General law to govern.** The provisions of the law relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of general elections, so far as they may be applicable, shall govern all water district elections, except as in this act otherwise provided; *provided, however, that where a corporation owns taxable real property within the boundaries of the district, the president, vice-president or secretary of such corporation shall be entitled to cast a vote on behalf of the corporation; provided also that an elector owning taxable real property within the district need not reside within the district in order to vote, and* provided that the board of commissioners shall canvass the returns of the first election and that thereafter, except as herein provided, the board of directors shall meet as a canvassing board and duly canvass the returns within four (4) days after any water district election, including any water district bond election."

Amending clause.

Section 2. That section 16-4520, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Publication of notice of election.

"16-4520. **Publication.** Such notice shall be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper published *in the county wherein* such water district *is located,* which newspaper shall be designated by the board of directors. Every qualified elector, *owning taxable real property,* within such voting precincts, but no others, shall be entitled to vote at such election. All the expenses of holding such election shall be borne by the district."

Amending clause.

Section 3. That section 16-4527, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Duty of commissioners to levy water taxes.

"16-4527. **Commissioners to levy water taxes.** If, from any cause, the revenues of the district shall be inadequate to pay the interest or principal of any bonded debt as it becomes due or any other expenses or claims against the district, then the board of directors must, at least fifteen (15) days before the first day of the month in which the board of commissioners of the county, or city and county, in which such water district is located, is required by law to levy the amount of taxes required for county or city and county purposes, furnish to the board of commissioners and to the auditor, respectively, an estimate in writing of the minimum amount of money required by the district for the payment of the principal or interest on any bonded debt as it becomes due, together with a description of the lands benefited thereby, as stated by the board of directors in the resolution declaring the necessity to incur such bonded indebtedness, and also of the minimum amount of money required by the district for any other purpose in this section set forth, and the board of commissioners of such county or city and county must annually, at the time and in the manner of levying other county or city and county taxes and until any such bonded debt is fully paid, levy upon the lands so benefited and cause to be collected, a tax sufficient for the payment thereof to be known as the '......................................county water district bond tax'; and until all other expenses or claims are fully paid, levy upon all of the lands of the district and cause to be collected a tax sufficient for the payment thereof to be known as the '...................................... county water district water tax'.

Computation of assessment.

"When the minimum amount of money required for any purpose in this section enumerated has been determined, each lot or parcel of land to be assessed shall be assessed with that part of the amount of money required which its area bears to the total area of all of the lands to be assessed; or said assessment may, at the option of the board of county commissioners, be based upon the *taxable valuation, as stated in the last completed county assessment roll,* of the lots or parcels of land, *exclusive of improvements thereon,* within said district, *in which case, each lot or parcel of land to be assessed shall be assessed with that part of the amount of money required which its taxable valuation bears to the total taxable valuation of all of the lands to be assessed.*

Notice of intention to levy.

"When the written estimate of the minimum amount of money required has been delivered to the board of commissioners, said board shall give notice of its intention to levy and collect a tax sufficient for the payment thereof. Such notice shall be given:

Posting.

(1) *By posting notice thereof in five (5) public places within the boundaries of the lands upon which the tax is to be levied, and*

Publishing.

(2) *By publishing a copy of the notice for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper published in the county wherein the district is located.*

By mail.

(3) *By forwarding registered mail, at least ten (10) days prior to the hearing provided for in paragraph (d) of this section, a copy of the notice addressed to the owners of taxable real property within the district as shown by the current assessment book on file in the office of the assessor of the county or counties the boundaries of which include taxable real property of the district.*

"The legislative assembly hereby finds, determines and declares that the giving of notice in accordance with paragraphs (1), (2) and (3) of this section is reasonably calculated to inform the owners of taxable real property located within the boundaries of the district of the hearing provided for in paragraph (d) of this section, and that the giving of any further notice is impracticable and is unnecessary to the assurance of due process of law to such property owners."

Provisions of notice.

Such notice shall state:

(a) *The amount of money required;*

(b) *The method of assessment which the board of commissioners intends to employ;*

(c) *The boundaries or description of the lands to be assessed; and*

Hearing.

(d) *The time when and the place where, the board of commissioners will hear and pass upon all protests that may be made against the levy of the tax or any matter pertaining thereto, which said hearing shall be had no less than fifteen (15) days after the last publication of the notice.*

Protest at hearing.

At the time and place designated for said hearing any owner of property situated within the area to be assessed may appear and protest the levy of the tax or any matter pertaining thereto. All protests must be heard, considered and ruled upon by the board of commissioners. The board of commissioners may adjourn said hearing from time to time.

Right to recover unlawful tax.

"Where such tax is, for any reason, deemed unlawful by the person whose property is taxed, whether he has protested the same at the hearing above provided or not, he may pay the tax or the installments thereof under protest in the manner provided by section 84-4502, Revised Codes of Montana, 1947, and thereupon, and within the time prescribed and in the manner provided by said section 84-4502, may commence an action to recover such tax, or installments, and in such action contest and litigate the payment of such tax on the same grounds and for the same reasons that he has stated in his written protest, and for no other reasons and on no other grounds; provided, that all of the provisions of said section 84-4502 for the retention or refunding of taxes paid under protest shall apply to taxes paid under protest under this section."

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Savings clause.

Section 5. If any provision contained in this act shall for any reason be held invalid, such decision shall not invalidate the remaining portions of this law.

Effective immediately.

Section 6. This act shall be in full force and effect from and after the date of passage and approval.

Approved March 13, 1959.

CHAPTER 259

An Act to Protect the Citizens of Montana from Persons Having Tuberculosis in a Communicable State; Defining the Terms 'Facility' and 'Tuberculosis'; Providing for Promulgation of Rules and Regulations by the State Board of Health; Allowing Any Board of Health to Apply to State District Court for Order of Commitment to a Facility; Specifying the Procedure Therefor; Providing for Commitment of Persons Found to Have Tuberculosis in a Communicable State; Permitting Patient to Apply to District Court for Release from Facility; Providing for Release When Confinement of Such Person is no Longer Required; Establishing Fees and Providing for Payment of Expenses by the County; Requiring State Board of Examiners and Counties to Provide and Maintain Facilities; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Statement of policy concerning tuberculosis control.

Section 1. **Statement of policy.** Whereas, a comprehensive program of public health in the field of tuberculosis treatment has been carried out for years by governmental and private groups in this state, and whereas the failure of certain persons known to have tuberculosis in a communicable state and certain persons known to have been exposed to tuberculosis in a communicable state to comply with the laws of the State of Montana, and applicable rules and regulations of the Montana state board of health, pertaining to tuberculosis control constitutes a menace to public health and welfare, and adversely affects the citizens of the state, it is hereby declared to be the public policy of this state to protect the citizens of this state from persons having tuberculosis in a communicable state, to provide a comprehensive program in the public interest for the prevention, abatement and eradication of this disease, to provide effective means for the carrying out and enforcement of such program, and to provide for cooperation with agencies of this state and the federal government in carrying out these objectives.

Definitions.

Section 2. **Definitions.** For the purpose of this act, the following words and phrases shall have the meaning ascribed to them in this section: (a) "Facility" means

"Facility." **"Tuberculosis."**

structures and equipment kept, used, maintained or contracted for by the State of Montana or local or federal agencies for the purpose of housing persons with communicable tuberculosis. (b) "Tuberculosis" means a disease caused by the tubercle bacillus that is characterized by the production of tuberculous lesions.

State board of health to make rules.

Section 3. The Montana state board of health shall promulgate rules and regulations, which rules and regulations shall be the basis for determination of the conclusive evidence of tuberculosis in a communicable state.

Order for examination of suspected tubercular.

Section 4. The board of health of a city, county, district or state may, upon the recommendation of either a doctor of medicine licensed in Montana or a qualified doctor of medicine employed in the federal service in this state or the officer of health of the city, county, district or state, apply to the district court of the county in which the person resides or may be found, for an order (a) to require any person who is suspected on reasonable grounds of having tuberculosis in a communicable state or of having been exposed to communicable tuberculosis to submit to procedures required by the rules and regulations of the state board of health to establish the diagnosis. (b) To remove to the facility any person suffering from tuberculosis, in a communicable state, who has refused to enter, or absents himself from any hospital against the medical advice of the treating physician, health officer, or superintendent of facility, when in the opinion of the board of health of the city, county, district, or state such person is a menace to public health.

Order to remove to facility.

Application on finding of public menace.

Section 5. If the board of health of the city, county, district, or state finds the person a public menace under this act, it shall file with the district court an application verified by its authorized representative, alleging (a) that such person is suspected on reasonable grounds of having tuberculosis in a communicable state or of having been exposed to communicable tuberculosis and has refused to submit to procedures required by the rules and regulations of the state board of health to establish the diagnosis, or (b) that such person is suffering from tuberculosis in a communicable state, is a menace to public health and has refused to enter or has absented himself from a tuberculosis hospital against medical advice of the treating physician or the health officer. Such application shall also state the names of witnesses by which the facts alleged therein may be proved, at least one of whom shall be a licensed doctor of medicine.

District court hearing.

Section 6. Upon the filing of the application provided for in this act, the district court shall hold a hearing on the application not less than three days nor more than seven days after personal service on the individual. A copy of the application together with summons stating time and place of hearing shall be served upon the person three days prior to the time set for hearing. The hearing shall be held in the district court. Except for good cause shown the district court has the authority to set the time for the hearing to be held in such other place in the county as conditions may require. On the day set for hearing the district judge shall proceed to examine the witness in attendance and further witnesses that such judge desires to call.

Service.

Summons.

Summons shall be returned to the office of the district court at or before the time set for the hearing with the time and manner of service endorsed thereon.

Commitment order.

Section 7. If upon hearing the district court shall find the essential allegations of the application true, and that the person has communicable tuberculosis and is a menace to public health, the said court shall then enter a commitment order committing the person to a facility. If, upon hearing, the district court shall find the essential allegations of the application true and that reasonable grounds exist to suspect that the person has communicable tuberculosis, or has been exposed to communicable tuberculosis, and is a menace to public health, the said court shall enter an order requiring the person to submit to an examination in accordance with the applicable rules and regulations of the Montana state board of health. If the person fails to comply with the order of the court for examination within the time set by said court then the court shall enter a commitment order committing the person to a facility. If the district court at the time of hearing finds the allegations of the application not sustained by the evidence, the application shall be dismissed and the person discharged.

Certified copies of order to superintendent and to board.

Section 8. If the district court enters an order committing the person to a facility, certified copies thereof shall be delivered to the superintendent of the facility to which the person is committed and to the board of health filing the petition. Any person committed under the provisions of this act, shall remain in the facility to which committed until discharged. No person committed under the provisions of this act shall be required to submit to medical or surgical treatment in the facility to which he is committed without his written consent, or, if incompetent, without the written consent of his next of kin, or duly appointed guardian, or if a minor, without the written consent of his natural or appointed guardian. The superintendent of such facility and his assistants may use such reasonable means as may be necessary to keep such person within the facility and to require him to comply with the rules and regulations promulgated by the facility for the care of such persons.

Written consent to treatment.

Warrant.

Section 9. When an order committing a person is issued to a facility, the district court shall also issue a warrant directed to the sheriff of the county in which the proceeedings are held to transport such person to the designated facility. In no case shall a female be so transported unless she is accompanied by her husband, brother, father, or son, or a female attendant of reputable character and mature judgment.

Application for release.

Section 10. Any time after one hundred eighty (180) days any patient committed to a facility under this act may apply to the district court in which commitment order was entered to order his release for the reason that he is no longer suffering from tuberculosis in a communicable state and he therefor is no longer a menace to public health. In not less than three (3) days nor more than seven (7) days after service of the notice the district court shall hold a hearing to determine whether the person committed is still a menace to public health by reason of his tuberculous condition. After a hearing the district court shall enter an order releasing the person from his commitment, if applicant's disease is found to be non-communicable, and directing his discharge; if the district court shall not so determine, it shall enter an order dismissing the application for the release and re-

Hearing.

Order of court.

mand the person to the facility to which he was committed.

Notice of finding and release.

Section 11. If the superintendent of the facility and the board of health who made the initial application find and concur that the person committed is no longer a menace to public health by reason of his tuberculous condition, they shall file with the district court a notice containing this finding and notice of date of release of the person from the facility.

Transfer to another facility.

Section 12. When it is in the best interest of the person, the superintendent of the facility may authorize the transfer of the person from the facility to which he was committed to another state, county, city, federal or to another hospital approved by the state board of health. The district court and the state board of health who made the initial application shall be notified of this transfer.

Records of court.

Section 13. The records of the district court shall contain a complete record of all proceedings had under the provisions of this act. The cost and expenses to be paid shall be as follows:

Payment of costs and expenses.

(a) To sheriffs or their deputies, the same fees allowed for similar service in the district court.

(b) To the doctors of medicine, not to exceed two, such fee as the district court may in its discretion direct.

(c) To other witnesses the same fees and mileage as for attendance in the district court; provided all witnesses fees shall be paid upon the approval of the district judge to the person other than the sheriff or his deputies for taking a person committed to a facility or removing one therefrom upon the warrant of the district judge, the actual necessary expense incurred specifically itemized and verified by his oath and approved by the district judge.

Such fees and expense, together with all costs in the district court, shall be paid from the treasury of the county from which such person is committed.

Expenses of removal.

Section 14. The expenses of removal of any person to a facility shall be borne by the county from which such person was committed. These expenses shall be paid from the general fund appropriations of the county or from the funds derived from such as may be designated. The charge for the care, treatment, and maintenance of the person at the state sanitarium shall be at the rate determined paid for according to existing law.

Duty to provide facilities.

Section 15. The state board of examiners shall provide and maintain at the state facility, Montana state tuberculosis sanitarium, quarters as may be necessary to carry out the provisions of this act. The counties shall provide and maintain facilities as may be necessary to carry out the provisions of this act.

Savings clause.

Section 16. This act is intended to supplement existing laws relating to communicable tuberculosis. Nothing in this act shall modify, supercede, or change any existing laws relative to communicable disease.

Effective July 1, 1959.

Section 17. This act shall be in full force and effect from and after the first day of July, 1959.

Approved March 13, 1959.

CHAPTER 260

An Act to Adopt the Uniform Facsimile Signatures of Public Officials Act; Providing for the Use of Facsimile Signatures and Seals on Public Securities and Instruments of Payment Issued by the State or Any of its Instrumentalities or Political Subdivisions; Constituting a Felony the Use of Such Signatures or Seals With Intent to Defraud; and Amending the Following Sections of the Revised Codes of Montana, 1947, to Delete Provisions Inconsistent With This Act: Section 11-2231, Respecting Special Improvement District Bonds and Warrants; Section 11-2316, Respecting Municipal Bonds; Section 16-1620, Respecting Rural Improvement District Bonds and Warrants; Section 16-2033, Respecting County Bonds; Section 75-3919, Respecting School District Bonds; Section 75-3942, Respecting School District Funding Bonds; Section 79-1802, Respecting State Refunding Bonds; Section 89-1705, Respecting Irrigation District Bonds; and Section 89-2501, Respecting Drainage District Bonds; Containing a Severability Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

"Public security."

Section 1. **Definitions.** As used in this act: (a) ''Public security'' means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state or by any of its departments, agencies, public bodies, or other instrumentalities or by any of its political subdivisions.

"Instrument of payment.

(b) ''Instrument of payment'' means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.

"Authorized officer."

(c) ''Authorized officer'' means any official of this state or any of its departments, agencies, public bodies, or other instrumentalities or any of its political subdivisions whose signature to a public security or instrument of payment is required or permitted.

"Facsimile signature."

(d) "Facsimile signature'' means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer.

Execution by facsimile signature.

Section 2. **Facsimile signature.** Any authorized officer, after filing with the secretary of state or, in the case of officers of any city, town, county, school district or other political subdivision, with the clerk of such subdivision, his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

(a) Any public security, provided that at least one signature required or permitted to be placed thereon shall be manually subscribed, but no such manual subscription shall be required as to interest coupons attached to such security; and

(b) Any instrument of payment.

Upon compliance with this act by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

Use of facsimile seal.

Section 3. **Use of facsimile seal.** When the seal of this state or any of its departments, agencies, public bodies, or other instrumentalities or of any of its political subdivisions is required in the execution of a public security or instrument of payment, the authorized officer may cause the seal to be printed, engraved, stamped or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

Violation and penalty.

Section 4. **Violation and penalty.** Any person who with intent to defraud uses on a public security or an instrument of payment:

(a) A facsimile signature, or any reproduction of it, of any authorized officer, or

(b) Any facsimile seal, or any reproduction of it, of this state or any of its departments, agencies, public bodies, or other instrumentalities or of any of its political subdivisions is guilty of a felony.

Amending clause.

Section 5. That section 11-2231 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Form of bonds and warrants of city improvement districts.

"11-2231. **Form of bonds and warrants.** All costs and expenses incurred in the construction of any improvements specified in this act, in any improvement district, shall be paid for by special improvement district bonds or warrants. Such bonds or warrants shall be drawn in substantially the following form:

District No.................................
United States of America,
State of Montana

Warrant or Dollars
(Bond No.................) $........................
Interest at the rate of....................per cent per annum, payable annually. Special improvement district coupon warrant or bond

...., Montana
Issued by the city of...................................., Montana
The treasurer of the city of..,
Montana, will pay to bearer, the sum of................................
dollars as authorized by resolution No......................... as
passed on the ....day of ....,
19.........., creating special improvement district No.............
for the construction of the improvements and the work

performed as authorized by said resolution to be done in said district, and all laws, resolutions, and ordinances relating thereto, in payment of the contract in accordance therewith. The principal and interest of this warrant (or bond) are payable at the office of the city treasurer of ...., Montana.

This warrant (or bond) bears interest at the rate of .... per cent per annum from the day of registration of this warrant (or bond), as expressed herein, until the date called for redemption by the city treasurer. The interest on this warrant (or bond) is payable annually on the first day of............................in each year, unless paid previous thereto, and as expressed by the interest coupons hereto attached, which bear the engraved facsimile signature of the mayor and city clerk.

This warrant (or bond) is payable from the collection of a special tax or assessment which is a lien against the real estate within said improvement district, as described in said resolution hereinbefore referred to.

This warrant (or bond) is redeemable at the option of the city at any time there are funds to the credit of said special improvement district fund for the redemption thereof, and in the manner provided for the redemption of the same.

It is hereby certified and recited, that all things required to be done, precedent to the issuance of this warrant (or bond), have been properly done, happened and been performed, in the manner prescribed by the laws of the State of Montana and the resolutions and ordinances of the city of.., Montana, relating to the issuance thereof.

(seal)

Dated at.., Montana, this.................. day
of..., 19.........
City of..., Montana.

By: ...., mayor
.................................., city clerk.

Registered at the office of the city treasurer of..................
.........................., Montana, this.............day of.............................., 19.........

...., city treasurer.

"And the same shall be drawn against the special improvement district fund created for the district, and shall bear interest at a rate not exceeding six (6%) per cent per annum, from the date of registration until called for redemption or paid in full, interest to be payable annually on the first day of January of each year, unless the council prescribes another date. Such warrants (or bonds) shall *bear the signatures of* the mayor and clerk, and shall bear the corporate seal of the city. They shall be registered in the office of the clerk and treasurer, and if interest coupons be attached thereto, they shall also be so registered and shall bear the signatures of the mayor and clerk. Said bonds shall be in denominations of one hundred ($100) dollars or fractions or multiples thereof, and may be issued in installments, and may extend over a period not to exceed twenty (20) years. Such warrants (or bonds) shall be redeemed by the treasurer when there are funds in the special improvement district fund against which said warrants (or bonds), on presentation of the coupons belonging thereto, and any funds remaining shall be applied to the payment of the principal and the redemption of the warrants (or bonds) in the order of their registration; and provided, further that whenever there are any funds in any special improvement district fund, after paying the interest on such warrants (or bonds) drawn against said fund, the treasurer shall call in for payment outstanding warrants (or bonds), which, together with the interest thereon to the date of redemption, will equal the amount of said fund on that date, which date shall be fixed by the treasurer, who shall give notice by publication once in a newspaper published in the city, or at the option of the treasurer, by written notice to the holder or holders of such warrants (or bonds) if their address be known, of the number of warrants (or bonds) and the date on which payment will be made, which date shall not be less than ten (10) days after the date of publication or of service of notice, and on which date so fixed, interest shall cease."

Interest.

Signatures, seal, registration.

Denomination.

Period.

Redemption.

Call for outstanding warrants or bonds.

Notice.

Section 6. That section 11-2316 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"11-2316. **Form and execution of bonds.** At the time of the sale of the bonds, or at a meeting held thereafter, Form and execution of bonds of cities and towns.

Signatures.

Seal.

the city or town council shall prescribe the form of the bonds whether amortization or serial bonds, and of the coupons to be attached thereto. Each and every bond and every coupon attached thereto must be signed by the mayor of the city or town, by the treasurer thereof, and must be attested by the city or town clerk, and each bond shall have the city or town seal affixed thereto.''

Amending clause.

Section 7. That section 16-1620 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Form and terms of county district warrants and bonds.

''16-1620. **Form and terms of district warrants and bonds.** (1) All costs and expenses incurred in the construction or maintenance of any improvement specified in this act, in any improvement district shall be paid for by special improvement district bonds, or warrants. Such bonds or warrants shall be drawn in substantially the following form:

District No. ....
United States of America,
State of Montana

Warrant or Dollars
(Bond No..................) $..........................

Interest at the rate of.....................per cent per annum, payable annually.

Special Improvement District Coupon Warrant or Bonds
...., Montana.
Issued by the County of.., Montana.

''The county treasurer of..County, Montana, will pay to..., or bearer, the sum of...................................... dollars, as authorized by Resolution No................., as passed on the.....................day of ...., 19........, creating or maintaining Special Improvement District No......................, for the construction (or maintenance) of the improvements and work performed as authorized in said resolution to be done in said district, and all laws, resolutions and ordinances relating thereto, in payment of the contract in accordance therewith. The principal and interest of this warrant (or bond) are payable at the office of the county treasurer of..County, Montana.

"This warrant (or bond) bears interest at the rate of ....per cent per annum from the date of the registration of this warrant (or bond), as expressed herein, until the date called for the redemption by the county treasurer. The interest on this warrant (or bond) is payable annually on the first day of............................ of each year, unless paid previous thereto and as expressed by the interest coupons hereto attached, which bear the engraved facsimile signature of the chairman of the board of county commissioners and the county clerk.

This warrant (or bond) is payable from the collection of a special tax or assessment which is a lien against the real estate within said improvement districts, as described in said resolution hereinbefore referred to.

This warrant (or bond) is redeemable at the option of the county at any time there are funds to the credit of said special improvement district fund (construction and maintenance) for the redemption thereof, and in the manner provided for the redemption of the same.

It is hereby certified and recited, that all things required to be done precedent to the issuance of this warrant (or bond) have been properly done, happened and been performed in the manner prescribed by the laws of the State of Montana and the resolution and ordinances of the county of......................................., Montana, relating to the issuance thereof.

Dated at......................................., Montana, this................ day of..., 19........, County of, ..., Montana.

(SEAL)

By..., chairman of the board of county commissioners.

(SEAL)

...., County Clerk.

Registered at the office of the county treasurer of ....County, Montana, this.................... day of..., 19.........

....

County Treasurer.

"(2) And the same shall be drawn against the special improvement district fund created for the district, that is, either the construction or maintenance fund as the case may be, and shall bear interest not to exceed six per cent per annum from the date of registration until called for redemption or paid in full, interest to be payable annually on the first day of January of each year, unless the board of county commissioners prescribe another date. Such warrants (or bonds) shall *bear the signatures of* the chairman of the board of county commissioners and the county clerk, and shall bear the corporate seal of the county. They shall be registered in the office of the county clerk and the county treasurer, and, if interest coupons be attached thereto, they shall also be so registered, and shall bear the signatures of the chairman of the board of county commissioners and the county clerk. Said bonds shall be in denominations of one hundred dollars ($100) or fractions, or multiples thereof; and may be issued in installments, and may extend over a period of not to exceed twenty (20) years.

Interest. **Signatures.** **Seal.** **Registration.** **Denominations.** **Period.**

Redemption.

"(3) Such warrants (or bonds) shall be redeemed by the county treasurer when there are funds in the special improvement district fund against which said warrants (or bonds) are issued available therefor; provided that the county treasurer shall first pay out of the proper special improvement district fund, annually, the interest on all outstanding warrants (or bonds) on presentation of the coupons belonging thereto, and any funds remaining in the proper fund shall be applied to the payment of the principal and the redemption of the warrants (or bonds) in order of their registration; provided, further, that whenever there are any funds in any special improvement district fund, after paying the interest on such warrants (or bonds) drawn against said fund, the county treasurer shall call in for payment outstanding warrants (or bonds), which, together with the interest thereon to the date of redemption, will equal the amount of said fund on that date, which date shall be fixed by the county treasurer, who shall give notice by publication once in a newspaper published in the city, or, at the option of the county treasurer, by written notice to the holder or holders of such warrants (or bonds), if their address be known, of the number of warrants (or bonds),

Call for outstanding warrants and bonds. **Notice.**

and the date on which payment will be made, which date shall not be less than ten days after the date of publication or of service of notice, and on which date so fixed, interest shall cease. When it is provided by the resolution creating or maintaining the district that the work be paid in warrants (or bonds) the board of county commissioners shall by resolution fix the denominations of such warrants (or bonds) which may be one hundred dollars ($100), or fractions or multiples thereof, the rate of interest, which shall not exceed six per cent (6%) per annum, and provide for the payment or redemption of such warrants (or bonds) at a time certain, which time of payment must not exceed twenty (20) years from and after the date of issuance."

Warrants or bonds given for payment for work performed.

Section 8. That section 16-2033 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"16-2033. **Form and execution of bonds.** At the time of the sale of the bonds or at a meeting held thereafter the board of county commissioners shall prescribe the form of the bonds, whether amortization bonds or serial bonds, and of the coupons to be attached thereto. Each and every county bond and every coupon attached thereto must be signed by the chairman of the board of county commissioners and the county treasurer and attested by the county clerk, and each bond shall have the county seal affixed thereto."

Form and execution of county bonds.

Signatures.

Seal.

Section 9. That section 75-3919 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"75-3919. **Form of bonds.** It shall not be necessary for the board of school district trustees to prescribe the detailed form of the bonds to be issued, but they must conform to all legal requirements for the payment thereof, whether they are issued as amortization or serial bonds. Such bonds shall be issued in the name of the school district and shall be signed by the chairman of the board of trustees and the school district clerk and attested with the corporate seal of the district if it has such seal. The coupons attached to the bonds shall also be signed by the said chairman and clerk. If the bonds are purchased by the state board of land commissioners,

Form of school district bonds.

Signatures.

Seal.

Payment when purchased by state.

all payments of both principal and interest shall be made at the office of the state treasurer."

Amending clause.

Section 10. That section 75-3942 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Fixing specifications of bonds.

Interest.

Denomination, form and term.

Signatures.

Seal.

"75-3942. **Fixing specifications of bonds—Registration—Exchange of warrants for bonds.** The board of school trustees shall, by resolution fix the rate of interest which said bonds shall bear not exceeding six per centum per annum, payable semi-annually; the denomination, form and terms thereof, which must be serial bonds for a term not to exceed ten years; such bonds *and the coupons attached thereto* shall bear the signatures of the chairman of the board of trustees and the clerk of said district; and the corporate seal of the school district shall be affixed to each of the bonds.

Deposit and registration.

Delivery to purchasers.

Surrender of warrants.

"Upon execution, the bonds shall be deposited with the county treasurer, who shall register the same in a book provided for that purpose which shall show the number and amount of each bond, its date, the date payable and redeemable, and the person to whom the same is issued, and the county treasurer shall deliver the same to the person or persons to whom sold upon their making payment for the same or if so directed by the board of trustees to such person or persons who shall surrender an amount of warrants, which, with accrued interest, shall equal the par value of such bonds and such warrants so received by the treasurer shall be immediately canceled."

Amending clause.

Section 11. That section 79-1802 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Character of bonds issued by state board of examiners.

Signatures.

"79-1802. **Character of bonds—Amortization or serial.** All refunding bonds or debentures issued by the state board of examiners under the provisions of this act shall be either amortization bonds, as defined by the statutes of the state, or serial bonds. Each issue of refunding bonds or debentures shall bear upon their face such statement as may be necessary to show that they are refunding bonds or debentures and the bonds or debentures which are issued to refund. Each bond and debenture shall *bear the signature of each member* of the state board of examiners and shall have affixed thereto the great seal of the State of Montana. Each serial bond thereof shall have coupons attached thereto showing the semi-annual payments due thereon, which coupons *shall bear the signature* of each member of the state board of examiners. The state board of examiners shall prescribe all other details for the form of the bonds or debentures, notice and time of sale. They shall be registered in the office of the state treasurer in a book to be provided for that purpose."

Seal. Coupons. Registration.

Section 12. That section 89-1705 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"89-1705. **Details relating to bonds.** (1) All bonds issued under the provisions of this act shall be payable in gold coin of the United States, of the standard weight and fineness existing at the time of the issue; and shall run for a period not longer than forty years from their date, but may contain a clause providing for their prior redemption and payment, at the option of the board of commissioners of the district, on any interest payment date after five years from their date. Instead of straight maturity bonds, bonds may be issued to mature serially at such times and in such amounts as the board of commissioners shall determine, but no bonds so issued shall run for a longer period than forty years from the date of issue. Said bonds shall bear interest from their date until paid at a rate not to exceed six per centum per annum, payable annually or semi-annually, the installments of interest to date of maturity of principal to be evidenced by appropriate coupons attached to each bond. Said bonds and interest coupons shall be payable at such place or places, within or without the State of Montana, as the board of commissioners shall prescribe.

Details relating to bonds. Redemption. Maturity. Interest. Coupons. Payment.

"(2) Such bonds shall be of such denomination or denominations, and in such form, as the board of commissioners shall prescribe. An issue of bonds is hereby defined to be all the bonds issued in accordance with a resolution or order of the board of commissioners. Each issue of the bonds of a district shall be numbered consecutively as authorized, and the bonds of each issue shall be numbered consecutively. The board of commissioners shall fix the date of said bonds, or may divide any

Denominations. Issue of bond defined. Date of bonds.

issue into two or more divisions and fix different dates for the bonds of each respective division. The date of any bond must be subsequent to the order or resolution authorizing it and prior to its delivery to a purchaser from the district.

Signatures.

Seal.

"(3) All bonds issued hereunder shall be signed by the president and attested by the secretary of the board under the corporate seal of the district, and each of the interest coupons to be attached to said bonds shall be executed by the signatures of said president and secretary. Each bond shall be signed, and each interest coupon shall be executed, by the president and secretary of the board of commissioners who may be in office at the date of said bond and coupons, or at any time thereafter prior to the delivery of said bond to the purchaser thereof from the district.

Registration.

Record.

"(4) The board of commissioners may provide for the registration of bonds in their discretion. The secretary of the board of commissioners and county treasurer, each shall keep a record of the bonds sold, or otherwise disposed of, their date, number, amount, maturity, or maturities, to whom sold, rate of interest, and the place or places of payment thereof."

Amending clause.

Section 13. That section 89-2501 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Power to borrow money.

To issue notes or negotiable coupon bonds.

"89-2501. **Borrowing money—Procedure to issue notes or bonds.** (1) The commissioners may borrow money not exceeding the amount of assessment for the cost of construction and additional assessments, as provided in section 89-2350, unpaid at the time of borrowing, for the construction or repair of any work which they shall be authorized to construct or repair, or for the payment of any indebtedness which they may have lawfully incurred, and may issue notes or negotiable coupon bonds on the district, bearing interest at a rate not to exceed six per centum per annum, payable semi-annually and not running beyond one year after the payment of the last installment of the assessment, on account of which money is borrowed, shall fall due.

Procedure.

"(2) Before the issuance of said notes or bonds, the commissioners shall pass a resolution providing for the issuance of such notes or bonds, which said resolution shall fix the rate of interest which said notes or bonds shall bear, not exceeding six per centum per annum, payable semi-annually, the time of payment and, if redeemable before maturity, the date thereof, and shall prescribe the denominations, not exceeding one thousand dollars, and form thereof, and may provide that both the principal and interest of said notes and bonds shall be payable at some convenient banking house, or trust company's office, to be named in said notes or bonds; such notes or bonds, *and the coupons attached thereto, shall bear the signatures of the president and the secretary of the drainage district;* and the corporate seal of the drainage district shall be affixed to each of the notes or bonds.

Resolution.

Signatures.

Seal.

"(3) Upon execution, the notes or bonds shall be deposited with the county treasurer, who shall register the same in a book for that purpose, which shall show the number and amount of each note or bond, its date, the date payable and redeemable, where payable, the person to whom issued, and upon sale of the said notes or bonds, the county treasurer shall deliver the same to the person or persons to whom sold, upon their making payment for the same; said notes or bonds may be sold by the commissioners at either public or private sale, either with or without advertisement as they may deem it to the best interests of the district; said notes or bonds shall not be sold at less than ninety per cent of their face value; said notes or bonds shall not be held to make the commissioners personally liable, but shall constitute a lien upon the assessments for the repayment of the principal and interest of such notes or bonds.

Registration.

Sale of notes or bonds.

Lien on assessments.

"(4) In case any moneys derived from bonds sold to pay for the original construction of said improvement, now or hereafter, remains on hand after the work is completed in original construction, and paid for, and not raised for damages unpaid for, such residue may be used in the maintenance and repair, as in this act provided before making assessments for such maintenance and repair."

Residue for maintenance and repair.

Section 14. **Uniformity of interpretation.** This act shall be so construed as to effectuate its general purpose

Interpretation.

to make uniform the law of those states which enact it.

Title.

Section 15. **Short title.** This act may be cited as the Uniform Facsimile Signatures of Public Officials Act.

Severability.

Section 16. **Severability.** If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Effective immediately.

Section 17. This act shall be in full force and effect from and after its passage and approval.

Approved March 13, 1959.

CHAPTER 261

An Act to Amend Section 11-2204, Revised Codes of Montana, 1947, Relating to Resolution of Intention, Notice and Materials for a Special Improvement District, to Provide That a Copy of Notice of Passage of Resolution of Intention Shall be Mailed to Every Person Having Real Property Within the Proposed District Listed in His Name Upon the Last Completed Assessment Roll for State, County and School District Taxes, Upon Same Day Such Notice is First Published or Posted; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-2204, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Procedure for creating special improvement districts.

Resolution of city council.

"11-2204. (5227) **Resolution of intention — Notice — Materials.** (1) Before creating any special improvement district for the purpose of making any of the improvements, or acquiring any private property for any purpose authorized by this act, the city council shall pass a resolution of intention so to do, which resolution shall designate the number of such district, describe the boundaries thereof, and state therein the general character of the improvement or improvements which are to be made, and an approximate estimate of the cost thereof; provided, however, that when any improvement is to be made in paving, the city or town council may in describing the general character of the same describe several kinds of paving.

Notice. **Publication.** **Posting.** **By mail.** **Provisions in notice.**

"(2) Upon having passed such resolution the council must give notice of the passage of such resolution of intention, which notice must be published for five days in a daily newspaper, or in some one issue of a weekly paper published in the city or town, or in case no newspaper be published in such city, then by posting for five days in three public places in the city or town, and a copy of such notice shall be mailed to every person, firm, or corporation, or the agent of such person, firm, or corporation having *real* property within the proposed district *listed in his name upon the last completed assessment roll for state, county and school district taxes,* at his last known address, upon the same day such notice is first published or posted. Such notice must describe the general character of the improvement or the improvements so proposed to be made, and state the estimated cost thereof, and designate the time when and the place where the council will hear and pass upon all protests that may be made against the making of such improvements, or the creation of such district; and said notice shall refer to the resolution on file in the office of the city clerk for the description of the boundaries. The city council may include in one proceeding under one resolution of intention and in one contract any of the different kinds of work mentioned in this act, and any number of streets and rights-of-way, or portions thereof, and it may except therefrom any of said work, already done, upon a street to the official grade.

Materials.

"(3) Where the special improvement contemplated is the paving of a street in which car tracks have been constructed, the city shall have the power and authority to order the general character of the material between the rails and one foot on each side of the rails to be of a different kind from that used in the remainder of the street; providing that the general character of the material to be used between the car tracks and one foot on each side of the rails be described in the resolution of intention, in the same manner as the general character of the material used for the rest of the contemplated pavement.

Lots not included in assessment.

"(4) The lots or portions of lots fronting upon said excepted work, already done, shall not be included in the assessment for the class of work from which the exception is made; provided, that this shall not be construed so as to affect the special provisions as to grading contained in section 11-2214 of this code."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1959.

CHAPTER 262

An Act Providing for the Construction, Furnishing and Equipping a Livestock Sanitary Board Diagnostic Laboratory Building in Gallatin County, Montana; Authorizing the State Board of Examiners to Issue and Sell Bonds for Such Purpose; Designating the Funds from Which Said Bonds Shall be Paid; Providing for an Interest and Sinking Fund; Approving Expenditures of $100,000.00 from the Livestock Sanitary Board Fund 151; Pledging Amounts to Meet Principal and Interest on Said Bonds from the Levy Imposed by Section 84-5211, Revised Codes of Montana, 1947; Providing a Repealing Clause and Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Authority to construct livestock sanitary board diagnostic laboratory building in Gallatin county.

Section 1. The Montana state board of examiners is hereby authorized and directed upon the request of the Montana livestock sanitary board to cause to be constructed, furnished and equipped a livestock sanitary board diagnostic laboratory building in Gallatin County, Montana. Said building shall be erected upon a site on the present campus grounds of Montana state college or upon lands owned or hereafter acquired by the state in Gallatin County.

Section 2. The state board of examiners is hereby

Authority to issue and sell bonds to finance building and to let contract on bids.

authorized upon the request of the Montana livestock sanitary board to issue and sell bonds for the purpose of constructing, furnishing and equipping the livestock sanitary board diagnostic laboratory building. The state board of examiners shall advertise for bids on said building in the manner provided by law and shall let the contract for said building. The board shall require both the contractor and architect to give bonds to the State of Montana in such amount as the board may determine for the faithful performance of their respective duties and contracts. The total cost of constructing, furnishing, and equipping said building shall not exceed the sum of two hundred and ninety thousand dollars ($290,000.00).

Cost limited to $290,000.

Provisions of bonds.

Section 3. For the purpose of providing funds for the constructing, furnishing and equipping of the livestock sanitary board diagnostic laboratory building authorized by this act, the state board of examiners is hereby authorized and empowered to issue and sell diagnostic laboratory building bonds of the State of Montana upon the request of the Montana livestock sanitary board in an amount not exceeding one hundred and ninety thousand dollars ($190,000.00). Said bonds shall bear interest at a rate not exceeding four per cent (4%) per annum, payable semi-annually. The bonds shall be either amortization or serial bonds, shall bear such date as the state board of examiners shall prescribe and shall be payable over such period of years, not exceeding ten (10), as said board may specify. All bonds shall be redeemable three (3) years after the date of issue and on any interest payment date thereafter, at the option of the state board of examiners. Said bonds shall be in such denomination and form and shall contain such recitals as the state board of examiners may determine, shall be signed by the governor, the attorney general and the secretary of state and shall be paid at the office of the state treasurer of the State of Montana. The coupons attached to said bonds may bear the facsimile signatures of members of said board.

Interest.

Redemption.

Denominations.

Signatures.

Coupons.

Sale of bonds.

Section 4. Said bonds shall be sold by the state board of examiners at such time, in such manner and under such conditions and terms as the board shall deem best to carry out the provisions of this act; provided that none of such bonds shall be sold for less than par, plus accrued interest to the date of delivery of the bonds. Each of said bonds shall be registered before delivery with the state treasurer of the State of Montana, who shall keep accurate accounts of payments of interest and principal upon said bonds.

Registration.

Funds out of which costs must be paid.

Section 5. The cost of constructing, furnishing and equipping said building shall be payable out of the following funds and from them only: First, the Montana livestock sanitary board is hereby authorized to expend the sum of one hundred thousand dollars ($100,000.00) from the livestock sanitary board fund 151 which fund is derived from a one and one-half (1½) mill levy on all livestock and is the separate tax levied pursuant to the provisions of section 84-5211, RCM, 1947. Second, from the proceeds of the bond issue as hereinbefore provided, which bonds shall be retired and interest paid from the proceeds of the tax levy authorized by section 84-5211, RCM, 1947, in an amount fixed and determined by the state board of examiners at the time of the sale of the bonds as necessary for the payment of principal and interest of the bonds. Provided, however, that the income from said tax levy over the amount necessary to pay principal and interest of the bonds may be used by the Montana livestock sanitary board as provided by section 84-5211, RCM, 1947.

Special fund for payment of bonds and interest.

Section 6. To provide for the payment of the interest and principal of bonds authorized by this act there is hereby created a special fund to be known as the diagnostic laboratory interest and sinking fund. With the consent and approval of the Montana livestock sanitary board, additional money from the funds realized from the tax levy provided in section 84-5211, RCM, 1947, may be paid by the state board of examiners into the interest and sinking fund in any one year for the payment and retirement of optional bonds.

Validity.

Section 7. The expenditure and dedication of funds herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Repealing clause.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Section 9. This act shall be in full force and effect from and after its passage and approval. **Effective immediately.**

Approved March 13, 1959.

CHAPTER 263

An Act to Amend Section 84-1502, Revised Codes of Montana, 1947, Relating to Deductions Allowed in Computing Corporation License Tax Net Income; to Provide for a Reduction in the Deduction Allowed for Salaries; Provide for a Reduction in the Depletion Allowance Authorized by Said Section; Provide for Deduction of Certain Taxes; Providing a Savings Clause; Providing an Effective Date; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 84-1502, Revised Codes of Montana, 1947, be amended to read as follows:

Deductions allowed in computing corporation license tax net income.

"84-1502. **Deductions allowed in computing income.** In computing the net income the following deductions shall be allowed from the gross income received by such corporation within the year from all sources:

Expenses.

1. All the ordinary and necessary expenses paid *or incurred during* the *taxable* year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, *subject to the limitation hereinafter contained,* rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity. *No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.*

Losses.

2. All losses actually sustained and charged off within

the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear of property arising out of its use or employment in the business or trade. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements or betterments made to increase the value of any property or estate and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

Depletion and depreciation allowed in case of mines, oil and gas wells.

3. In the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the state board of equalization; provided, however, for the purpose of determining depletion, depreciation and obsolescence, in all cases not expressly provided for in this act, the provisions of the most recent act of Congress of the United States, commonly known as the federal income tax act, and the rules, regulations and decisions thereunder, insofar as the same are applicable and pertinent and not repugnant to or inconsistent with the express provisions of this act, shall be the rule of decision by the state board of equalization.

Interest paid.

4. The amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived; but no interest shall be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance or improvement of property or for the conduct of business unless the income from such property or business would be taxable under this act.

Taxes paid.

5. *Taxes paid within the year except not to include the following:*

(a) *Taxes imposed by this act.*

(b) *Taxes assessed against local benefits of a kind tending to increase the value of the property assessed.*

(c) *Taxes on or according to or measured by net income of profits imposed by authority of the government of the United States.*

Taxes deductible under this act shall be construed to include taxes imposed by any county, school district or municipality of this state.

6. In the case of insurance companies, in addition to the above, the net addition required by law to be made within the year to reserve funds, and paid within the year on policy and annuity contracts." **Net reserve of insurance companies.**

Section 2. If any portion, section, subsection, paragraph, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the remainder of the act. **Savings clause.**

Section 3. All acts or parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Section 4. The provisions of this act shall apply to all taxable years ending after June 30, 1959. **Applies to taxable years after June 30, 1959.**

Approved March 14, 1959.

CHAPTER 264

An Act to Amend Section 84-1501, Revised Codes of Montana, 1947, Relating to Corporation License Tax, Organizations Exempt from Such Tax and the Rate of Such Tax; Providing for the Rate of Such Tax; Providing for Taxability of All Net Income of Domestic Corporations and Broadening the Tax Base of Foreign Corporations; Providing an Effective Date for This Act; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 84-1501, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows: **Amending clause.**

"84-1501. **Corporation license tax—Organizations exempt therefrom.** The term corporation includes associations, joint stock companies, common law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agree- **Corporation license tax fees.**

ments, declarations of trust. Every corporation, except as hereinafter provided, organized and existing under the laws of the State of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said State of Montana, *such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the State of Montana as hereinafter set forth;* and every corporation, except as hereinafter provided, organized and existing under the laws of any other state or country, or the United States, and engaged in business in the State of Montana, shall annually pay for the exclusive use and benefit of the State of Montana a license fee for carrying on its business in the State of Montana of *such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the State of Montana as hereinafter set forth.*

Based on total net income.

Computation.

The percentage of net income to be paid under this section shall be five per centum (5%) of all net income for the taxable period, provided however, that as to all taxable periods ending on or after December 31, 1960, whether on a calendar or fiscal year basis, the percentage of net income to be paid under this act shall be four and one half per centum (4½%). Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than ten dollars ($10).

Minimum.

Exempt organizations.

"There shall not be taxed under this title any income received by any—

First. Labor, agricultural or horticultural organization;

Second. Mutual savings bank not having a capital stock represented by shares;

Third. Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

Fourth. Domestic building and loan associations or cooperative bank without capital stock, organized and operated for mutual purposes and without profit;

Fifth. Cemetery company owned and operated exclusively for the benefit of its members;

Sixth. Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

Seventh. Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

Eighth. Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

Ninth. Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

Tenth. Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

Eleventh. Labor, agricultural or horticultural cooperatives organized and operated on a cooperative basis; (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation or 6 per centum per annum, whichever is greater on the value of the consideration for which the stock was issued; and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases. Business done with the United States, State of Montana or its political subdivisions shall be exempt under this act. Any cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis.

Twelfth. Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

Thirteenth. In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function."

Savings clause. Section 2. If any portion, section, subsection, paragraph, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the remainder of the act.

Section 3. This act shall be effective as to all taxable periods ending on or after December 31, 1958, whether on the calendar or fiscal year basis.

Applies to taxable periods as of December 31, 1958.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 14, 1959.

CHAPTER 265

An Act to Amend Section 84-4902 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 228, of the Montana Session Laws of 1957, Relating to Rate of Income Tax; to Provide for a Change in Rates; Containing a Repealing Clause and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 84-4902 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 228, of the Montana Session Laws of 1957, be, and the same is hereby amended to read as follows:

Amending clause.

"84-4902. **Rate of income tax.** There shall be levied, collected and paid for each taxable year upon the *taxable* income of every taxpayer subject to this tax, after making allowance for exemptions and deductions, as hereinafter provided, a tax at the following rates, to-wit:

Computation of rate of income tax.

(a) On the first one thousand dollars ($1,000.00) of *taxable* income, or any part thereof, at the rate of one per centum (1%);

(b) On the next one thousand dollars ($1,000.00) of *taxable* income, or part thereof, at the rate of *two per centum (2%);*

(c) On the next one thousand dollars ($1,000.00) of *taxable* income, or any part thereof, at the rate of *three per centum (3%);*

(d) On the next *two thousand dollars ($2,000.00)* of *taxable* income, or any part thereof, at the rate of *four per centum (4%);*

(e) On the next *two thousand dollars ($2,000.00)* of *taxable* income, or any part thereof, at the rate of *five per centum (5%);*

(f) *On any taxable income in excess of seven thousand dollars ($7,000.00) at the rate of seven per centum (7%).*

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective December 31, 1959.

Section 3. This act shall be in full force and effect from and after December 31, 1959.

Approved March 14, 1959.

CHAPTER 266

An Act to Amend Section 75-107 of the Revised Codes of Montana, 1947, as Amended by Section 1, Chapter 92 of the Montana Session Laws of 1951, as Amended by Section 2, Chapter 236 of the Montana Session Laws of 1953, Relating to the Powers and Duties of the State Board of Education; Providing That the State Board of Education Shall Serve ex Officio as Regents of the University of Montana; Providing That the Executive Secretary of the University of Montana Shall Serve as the Secretary for the Board Sitting as the University Regents, and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-107 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 92 of the Montana Session Laws of 1951, as amended by section 2, chapter 236 of the Montana Session Laws of 1953, be, and the same is hereby amended to read as follows:

Power and duties of state board of education—control and supervision of six unit university system.

"75-107. (836) **Powers and duties.** The state board of education shall have power and it shall be its duty:

1. To have general control and supervision of the Montana state university, Montana state college, Montana school of mines, Montana state normal college, eastern

Montana state normal school, and northern Montana college, all being units of the university of Montana. It is the purpose of this act that the said six (6) units of our university system shall be considered for all purposes one university. *The state board of education shall serve ex officio as regents of the University of Montana and shall use and adopt this style in all its dealings therewith.* **Board to serve ex officio as regents.**

2. To adopt rules and regulations, not inconsistent with the constitution and the laws of this state, for its own government, and proper and necessary for the execution of the powers and duties conferred upon it by law. **Board to adopt rules for its own government.**

3. To provide, subject to the laws of the state, rules and regulations for the government of the affairs of the state educational institutions named in this section. **Rules for government of university system.**

4. To prescribe standards of promotion to the high school department of all public schools of the state, and to accredit such high schools as maintain the standards of work prescribed by the board on all such matters of promotion and accrediting. The board shall act upon recommendation given to it by the state superintendent of public instruction. **Standards of high schools.**

5. To grant diplomas to the graduates of all state educational institutions, where diplomas are authorized or now granted, upon the recommendation of the faculties thereof, and may confer honorary degrees, upon persons, other than graduates, upon the recommendation of the faculty of such institutions. **To grant diplomas.**

6. To adopt and use, in the authentication of its acts, an official seal. **Seal.**

7. To keep a record of its proceedings. **Record.**

8. To make an annual report on or before the first day of January in each year, which may be printed under the direction of the state board of examiners. **Annual report.**

9. To appoint and commission experienced teachers as instructors in county institutes. **Appoint instructors.**

10. To have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the institutions and colleges named in this section. **Control of properties.**

Receipt of funds.

11. To receive from the state board of land commissioners, or other boards, or persons or from the government of the United States, any and all funds, incomes, and other property to which any of said institutions may be entitled, and to use and appropriate the same for the specific purpose of the grant or donation, and none other; and to have general control of all receipts and disbursements of any of said institutions.

Appointment of faculty.

12. To choose and appoint a president and faculty for each of the various state institutions named herein, and to fix their compensation. The board must appoint an executive secretary of the university of Montana and fix his term of office and salary and prescribe generally his duties. Said executive secretary shall not be a member of the board. *The executive secretary of the university of Montana shall serve as the secretary for the board sitting as the university regents.*

Secretary.

Budget committee.

13. To appoint each two (2) years a budget committee composed of four (4) members selected from the appointive members of the board, whose duties shall be to review the budget requests presented by the institutions composing the university of Montana and to transmit such requests to the board together with recommendations thereon.

Delegation of power.

14. To confer upon the executive board of each of said institutions such authority relative to the immediate control and management, other than financial, and the selection of the faculty, teachers, and employees, as may be deemed expedient, and may confer upon the president and faculty such authority relative to the immediate control, and management, other than financial, and the selection of teachers and employees, as may by said board be deemed for the best interest of said institutions."

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1959.

CHAPTER 267

An Act to Amend Section 75-3612 of the Revised Codes of Montana, 1947, as Amended by Chapter 241, Laws of 1955 and Chapter 251, Laws of 1957, Providing for the Equalization of Financial Distribution for All Elementary and Secondary Schools in Order to Maintain a Uniform System of Free Public Schools; Providing Schedules for Determining Support of Foundation Financial Program for Public Elementary and Secondary Schools, and for Other Purposes, and Containing a Repealing Clause and Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-3612, Revised Codes of Montana, 1947, as amended by chapter 241, laws of 1955 and chapter 251, laws of 1957, be, and the same is hereby amended to read as follows:

Distribution of school funds.

"75-3612. **Foundation program.** The moneys coming into said state public school equalization fund shall be distributed and apportioned to provide an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt retirement, and for the payment of any and all costs and expense incurred in connection with any adult education program, kindergarten, recreation program, school lunch and cafeteria program, new buildings, new grounds, and transportation, in accordance with the following schedules:

Elementary Schools

Elementary schools—rates of distribution.

(1) For each elementary school having eight (8) or fewer pupils and which, upon the request of the board of trustees of the district, is approved as an isolated school by the county budget board, the district shall receive *three thousand three hundred dollars ($3,300.00)*, and if said school is not approved as an isolated school, then it shall receive seventeen hundred dollars ($1,700.00).

(2) Schools with an ANB in excess of eight (8) but less than eighteen (18) pupils, shall receive *three thousand three hundred dollars ($3,300.00)* plus *one hundred twenty-five dollars ($125.00)* per pupil on the basis of average number belonging over eight (8).

(3) Schools having an ANB of eighteen (18), but less than forty-one (41), shall receive a maximum of *forty-five*

hundred fifty dollars ($4,550.00), plus *forty-one hundred dollars ($4,100.00)* provided two (2) teachers are regularly employed as full time teachers in such school, plus fifty dollars ($50.00) for each ANB over eighteen (18); *forty-five hundred fifty dollars ($4,550.00)* shall be the maximum for any one-teacher school, plus fifty dollars ($50.00) for an ANB over eighteen (18), not to exceed an ANB over twenty-five (25).

(4) Schools having an ANB in excess of forty (40) will be guaranteed funds only on the basis of the total pupils (ANB) in the district for elementary pupils as follows:

For a school having an ANB of more than forty (40), and employing a minimum of three (3) teachers, the maximum of *three hundred twenty dollars ($320.00)* shall be decreased at the rate of *sixty-five cents ($0.65)* for each additional pupil until the total number (ANB) shall have reached a total of one hundred (100) pupils. Provided, however, that if only two (2) teachers are employed in a school with an ANB over forty (40) the maximum schedule shall be nine thousand *seven* hundred *fifty* dollars ($9,750.00) plus *fifty* dollars ($50.00) for each ANB over forty (40), not to exceed and ANB over fifty (50). For a school having an ANB of more than one hundred (100) pupils, the maximum of *two hundred eighty-one dollars ($281.00)* shall be decreased at the rate of *twenty-nine cents ($0.29)* for each additional pupil until the ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum shall not exceed *two hundred twenty-three dollars ($223.00)* for each pupil; provided that the maximum per pupil, for all pupils, ANB, shall figure on the basis of the amount allowed herein on account of the last eligible pupil, ANB, and provided further that all the schools operated within the incorporated limits of a city or town shall be treated as a school unit for the purpose of this schedule.

High Schools

High schools—rates of distribution.

For a school having an average number belonging (ANB) of forty (40) or fewer pupils in a school, the guaranteed budget shall not exceed *five hundred thirty dollars ($530.00)* for each pupil. High schools shall not receive state equalization aid unless they have been accredited by the state board of education.

For a secondary school having an ANB of more than forty (40) pupils, the maximum *five hundred thirty dollars ($530.00)* shall be decreased at the rate of *two dollars and sixty cents ($2.60)* for each additional pupil until the ANB shall have reached a total of one hundred (100) such pupils. For a school having an ANB of more than one hundred (100) pupils, the maximum of *three hundred seventy-four dollars ($374.00)* shall be decreased at the rate of *sixty-five cents ($0.65)* for each additional pupil until the number ANB shall have reached two hundred (200) pupils. For a school having an ANB of more than two hundred (200) pupils, a maximum of *three hundred nine dollars ($309.00)* shall be decreased at the rate of *ten cents ($0.10)* for each additional pupil until the total number, ANB, shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum of *two hundred ninety-nine dollars ($299.00)* shall be decreased at the rate of *five cents ($0.05)* for each additional pupil until the total number, ANB, shall have reached *nine hundred (900)* pupils. Schools having an ANB in excess of *nine hundred (900)* pupils shall receive *two hundred sixty-nine dollars ($269.00)* per pupil, provided that the maximum per pupil for all pupils, ANB, shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB.

In computing the amount guaranteed for the foundation program, only junior high schools which have been approved and accredited by the state board of education shall be considered a part of the secondary enrollment."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective July 1, 1959.

Section 3. This act shall be in full force and effect from and after the first day of July, 1959.

Approved March 16, 1959.

CHAPTER 268

An Act to Amend Section 94-1002, Revised Codes of Mon-

tana, 1947, and Providing Certain Buildings, Places and Tracts of Land Under One Ownership Are Public Nuisances if They Are Used for Illegal Acts as Prohibited by Chapter 24 and Chapter 30, Title 94 Revised Codes of Montana, 1947, Providing That All Acts in Conflict Herewith Are Hereby Repealed and Providing That This Act be Effective from and After its Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 94-1002, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Declaring certain buildings or tracts of land used for illegal purposes a nuisance.

"94-1002. (11124) **Certain buildings declared nuisances.** Every building or place *or tract of land under one ownership* used for the purpose of lewdness, assignation, or prostitution, and every building or place *or tract of land under one ownership* wherein or upon which acts of lewdness, assignation, or prostitution are held or occur, and any building, *place or tract of land under one ownership* wherein *or upon which* gambling *or those other illegal acts prohibited by chapter 24 and chapter 30, title 94 Revised Codes of Montana, 1947, are* carried on or occurs, contrary to any of the laws of the State of Montana, or wherein any wine rooms are conducted or maintained, contrary to the laws of the State of Montana, or wherein any opium or coca leaves, their salts, derivatives, and preparations thereof are sold or given away or used contrary to the laws of the State of Montana, is a nuisance which shall be enjoined, abated, and prevented as hereinafter provided, whether the same be a public or private nuisance."

Abatement.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be effective from and after its passage and approval.

Approved March 16, 1959.

CHAPTER 269

An Act to Amend Section 75-104, of the Revised Codes of Montana, 1947, Relating to the Officers of the State Board of Education; Providing for the Election of a Chairman Thereof from Among the Appointed Members of Said Board and for Such Other Officers as May be Necessary for the Effective Administration of the University System; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-104, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"75-104. **Officers.** The governor shall be the president of said board and the superintendent of public instruction shall be the secretary thereof. The state treasurer shall be the treasurer of the board. *The board may also elect a chairman from the appointed members, who shall serve in the absence of the governor, and such other officers as may be necessary for the effective administration of the university system.*"

Officers of state board of education declared—chairman.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 16, 1959.

CHAPTER 270

An Act to Amend Section 75-2707, Revised Codes of Montana, 1947, as Amended by Chapter 160, Laws of 1955; and Section 75-2712, Revised Codes of Montana, 1947, Relating to the Minimum Retirement Benefits Paid by the Teachers' Retirement System Under the Present System and Under the Former Retirement System; to Provide for an Increase in the Minimum Annual Retirement Allowance.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-2707 of the Revised Codes of Montana, 1947, as amended by chapter 160, laws of

Amending clause.

1955, be, and the same is hereby amended to read as follows:

Benefits under teachers' retirement system—superannuation retirement.

"75-2707. **Benefits.** (1) Superannuation retirement benefit. (a) Any member who has completed ten years of creditable service, the last ten years of which shall have been in this state, and who has attained the age of sixty may retire from service, if he files with the retirement board his written application setting forth the fact of his retirement.

Age of seventy.

(b) That from and after the passage and approval of this act, any member in service who has attained the age of seventy years, during any school year shall be retired by said retirement board on the first day of September following his or her seventieth birthday.

Allowance.

"(2) Allowance on superannuation retirement. Upon superannuation retirement a member shall receive a superannuation retirement allowance which shall consist of:

Annuity.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

Pension.

(b) A pension of one-quarter of his average final compensation provided his creditable service is at least thirty-five years, otherwise, a pension of one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service, and

Additional pension.

(c) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

Schedule of minimum allowances.

(d) The minimum annual retirement allowance for a member who has completed thirty years service and who retired after September 1, 1937, and before June 30, 1949, shall be *nine hundred dollars ($900.00),* and the minimum retirement allowance for a member who retired after September 1, 1937, and before June 30, 1949, but whose service is less than thirty years shall receive a minimum retirement allowance based on the proportionate amount of *nine hundred dollars ($900.00)* that his service bears to thirty years of service.

(e) The minimum annual retirement allowance for a member who has completed thirty-five years of service and who has attained the age of sixty-five and who retires after June 30, 1949, shall be *nine hundred dollars ($900.00).*

(f) In the event a member retired on a superannuation allowance has not received more than three retirement payments prior to death, the beneficiary of the member shall receive a refund of the difference between the total paid and the amount of the accumulated contributions.

Disability retirement benefit.

"(3) Disability retirement benefit. Upon the application of a member in service or of his employer, any member who has had ten or more years of creditable service in the State of Montana may be retired by the retirement board not less than thirty and not more than ninety days next following the date of filing such applications on a disability retirement allowance, provided that the medical board after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

"If the applicant for disability retirement was prevented because of the disability from making application at the time of the time of the commencement of disability, the retirement board shall grant the disability retirement upon the proper application for disability retirement allowance and make payments retroactive to the thirtieth day after the date of commencement of disability.

Allowance.

"(4) Allowance on disability retirement. Upon retirement for disability a member shall receive a superannuation allowance if he is eligible for a superannuation allowance; otherwise he shall receive a disability retirement allowance which shall consist of:

Annuity.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement, and

Pension.

(b) A pension which, together with his annuity, shall provide a total retirement allowance equal to ninety per centum (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (¼) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter (¼) of his average final compensation, provided, however, that no such allowance shall exceed ninety per centum (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

Difference paid.

(c) In the event payments made to a person retired because of disability do not equal the amount of his accumulated contributions prior to his death the difference between the amount paid and the total of the accumulated savings account of said member shall be paid to the beneficiary.

Re-examination.

"(5) Re-examination of beneficiaries retired on account of disability. Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not yet attained the age of sixty to undergo a medical examination by the medical board or a physician or physicians designated by the medical board, such examination to be made at the place of residence of said beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty refuse to submit to at least one medical examination in any year by the medical board, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the retirement board.

Modification.

"(6) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, than the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed the amount of his pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

Restored to active service.

"(7) Should a disability beneficiary under age sixty be restored to active service at a compensation not less than his average final compensation his retirement allowance shall cease; he shall again become a member of the retirement system and contribute thereto. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect and in addition upon his subsequent retirement he shall be credited with all his service as a member, and should he be restored to active service on or after the attainment of the age of fifty-five years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new entrant.

Withdrawal from service.

"(8) (a) A member who withdraws from service or ceases to be a teacher for any cause other than death or retirement shall be paid only the amount contributed by the member to his annuity savings account after first deducting any unpaid annual membership fees of said member.

In event of death.

(b) Should a member die before retirement only the amount of the member's contributions to his annuity savings fund account after deducting any unpaid annual membership fees shall be paid to his estate or such person as he shall have nominated by written designation duly executed and filed with the retirement board.

Election to receive annuity.

(c) In lieu of benefits provided in (b) above, if the deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to rceive a monthly life annuity. Said monthly life annuity to be based on the beneficiary's attained age at the time of the deceased member's death and to be calculated from an amount equal to the required reserve for the deceased member's creditable service, together with the deceased member's accumulated contributions.

Allowance for surviving children.

If the beneficiary so electing be the surviving spouse of the deceased member, such beneficiary shall receive, in addition to the monthly annuity, provided the deceased member was actively engaged as a teacher in the State of Montana within one (1) year prior to his death, the sum of fifty dollars ($50.00) per month for each child from the pension accumulation fund for the support of the minor child or children of the deceased member until such child or children reach his or their eighteenth birthday, but such payments shall not exceed in any one (1) month the sum of one hundred dollars ($100.00).

Optional benefits.

(9) Optional benefits. With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided, or he may on retirement elect to receive the actuarial equivalent at that time of his retirement or disability allowance in a lesser retirement allowance payable throughout life with the provision that:

Election.

Schedule of options.

Option 1. If he dies before he has received in payment of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or

Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Option 3. Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement, provided such other benefit or benefits, together with the lesser retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board.''

Amending clause.

Section 2. That section 75-2712 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Provision for discontinuing former retirement system.

''75-2712. **Provision for discontinuing former retirement system.** (1) On and after the first day of September, 1937, no further retirements shall be made under the provisions of the law governing the former retirement system and no benefits shall be paid either from the public school teachers' retirement salary fund, or from the public school teachers' permanent fund as established under such law, except as hereinafter described.

Transfer of assets to trust fund.

(2) All assets in the funds maintained under said law on the first day of September, 1937, shall be transferred to the pension accumulation fund of the retirement system to be held in trust and invested as a trust fund and disbursed only in payment of benefits to those teachers on whose account they were contributed.

Payments from trust fund.

(3) Upon the transfer of such trust funds, the retirement salaries of all persons entitled to retirement salaries from the former retirement system on September first, (1st), 1937, shall be paid beginning as of September first, (1st), 1937, from such trust fund.

Annual allowance from pension accumulation fund.

(4) Any such person who having retired upon a retirement allowance under said former retirement system, shall have retired after having served as a teacher for at least twenty-five school years, fifteen of which, including the last ten years, shall have been in the schools of this state, and who shall elect under the next preceding subdivision of this section to receive his interest in said public school teachers' retirement salary fund and said public school teachers' permanent fund in the form of an annuity, shall be entitled, while he shall remain retired, to receive and be paid from the said pension accumulation fund an annual allowance which, together with his said annuity, shall equal the sum of *nine hundred dollars ($900.00)*. Any other person retired upon such allowance who shall elect to receive his interest in said funds in the form of an annuity shall, upon reaching the age of sixty years, be entitled, while he shall remain retired, to receive and be paid from the said pension accumulation fund an annual allowance, which together with his said annuity, shall equal a sum which shall be that proportion of *nine hundred dollars ($900.00)* which the number of school years which he shall have served as a teacher, and credited under the former retirement system bears to twenty-five.

Duty of retirement board to employ actuary to determine valuations.

(5) The retirement board of the teachers' retirement system of the State of Montana shall employ an actuary to value the liabilities to be assumed by the pension accumulation fund of the retirement system as of the first day of September, 1937, on account of the payment of the retirement salaries of all persons entitled thereto under the former retirement system as provided under subsection (2) of this section. The actuary so employed shall be an actuary also approved by the retirement salary fund board of the former retirement system. If such valuation shows that the amount held in trust in the pension accumulation fund for the payment of these retirement salaries is less than the amount required to continue such payments to the persons so retired the deficiency contri-

bution rate payable by the state as provided under subsection (3) of section 75-2709 shall be increased in order to provide future contributions which shall be sufficient with the funds held in trust to provide such payments. If the valuation shows that the amount held in trust is in excess of the amount required to continue such payments to the persons so retired, then the amount of the excess shall be paid pro rata to the active teachers who were contributors under the provisions of the former retirement act in ratio to the amounts contributed under the provisions of the former retirement act."

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Section 4. If any section, subdivision, paragraph, sentence, clause, or part of this act is declared to be unconstitutional the remainder of this act shall not thereby be invalidated. **Savings clause.**

Approved March 16, 1959.

CHAPTER 271

An Act to Amend Section 11-3804, Revised Codes of Montana, 1947, Relating to the Membership of City Planning Boards by Requiring the Citizen Members Appointed by the Mayor to be Resident Freeholders; and to Amend Section 11-3812, Revised Codes of Montana, 1947, Relating to the Qualifications of City-County Board Members by Providing the Members Shall be Resident Freeholders; and to Amend Section 11-3830, Revised Codes of Montana, 1947, Relating to the Adoption of a Master Plan for a City and Unincorporated Areas by Providing for Approval by the County Commissioners and Settling of Boundary Areas Between Planning Boards; and to Amend Section 11-3842, Revised Codes of Montana, 1947, Relating to the Filing of Subdivision Plats by Requiring the Plat Comply With the Master Plan and Approval be Endorsed on the Plat Before Filing; and to Amend Section 11-3852, Revised Codes of Montana, 1947, Relating to City Powers Regarding Building and Zoning Regulations by Authorizing Boards of County Commissioners to Exercise Such Powers; and to Amend Section 11-3853, Revised Codes of Montana, 1947, Relating to the Recovery and Use of Resources by Including Agricultural Resources; and to Amend Section 11-3854, Revised Codes of Montana, 1947, Relating to the Planning Board Exercising Powers Conferred on Cities by Sections 11-2701 Through 11-2710 by Authorizing the Planning Board to Exercise the Same Powers Conferred on Boards of County Commissioners; Repealing Sections 11-3809, 11-3841, 11-3849 and 11-3850, Revised Codes of Montana, 1947, and All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-3804, Revised Codes of Montana, 1947, as enacted by chapter 246, Laws of 1957, be, and the same is hereby amended to read as follows:

City planning board —members.

"11-3804. **City planning board.** A city planning board shall consist of not less than seven (7) members to be appointed as follows:

a. One (1) member to be appointed by the city council from its membership;

b. One (1) member to be appointed by the city council who may in the discretion of the city council be an employee or hold public office in the city or county in which the city is located;

c. One (1) member to be appointed by the mayor upon the designation by the county commissioners of the county in which the city is located;

d. Four (4) citizen members to be appointed by the mayor, two (2) *of whom* shall be resident *freeholders within* the urban area, if any, outside of the city limits over which the planning board has jurisdiction under this act *and two (2) of whom shall be resident freeholders within the city limits. Such citizen members shall hold no other office in the city government."*

Amending clause.

Section 2. That section 11-3812, Revised Codes of Montana, 1947, as enacted by chapter 246, laws of 1957, be, and the same is hereby amended to read as follows:

"11-3182. **Citizen members of city-county board — qualifications.** The citizen members *of the city-county planning board shall be resident freeholders in the area over which the planning board has jurisdiction, provided,* however, that at least two (2) *of such* members shall *be resident freeholders* in the area, if any, outside the city limits over which the planning board has jurisdiction."

Qualifications of citizen members.

Section 3. That section 11-3830, Revised Codes of Montana, 1947, as enacted by chapter 246, laws of 1957, be, and the same is hereby amended to read as follows:

Amending clause.

"11-3830. **Master plan — Limits.** *The* planning board shall *prepare and* adopt a master plan for the development of the city *wherein it was created* and such contiguous unincorporated area outside the city as, in the judgment of the *planning* board, bears reasonable relation to the development of the city. *Before exercising any authority or jurisdiction over such unincorporated area, the planning board, after approval by the board of county commissioners, shall file in the office of the clerk and recorder a map or plat showing the boundaries of such unincorporated area. With the approval of the board of county commissioners, such boundaries may be revised from time to time by the planning board. Such revised boundaries shall be shown upon a map or plat which shall be filed as above provided. The area included in such map or plat shall constitute the area over which the planning board shall have jurisdiction.*

Duty to prepare master plan including contiguous unincorporated areas.

Limitation on authority.

Plat to be filed with clerk and recorder.

Revised boundaries.

Jurisdiction.

"In case *an* unincorporated area is within the potential jurisdiction of more than one planning board, then the boundary *between the conflicting areas* shall be determined by *agreement between the planning boards involved, with the approval of their respective governing bodies, and a map or plat showing the boundary lines so agreed upon and approved* shall be filed as a part of any master plan or plans, and *thereafter shall fix* the limit of territorial jurisdiction *with respect to* decisions, *orders or other actions to be made or taken by the respective planning boards or* the governing bodies of cities *or counties involved* under the authority of this act; *provided, however, that in the case of counties not exceeding twenty thousand (20,000) in population, the jurisdictional limits of the city-county planning board shall not extend more than six*

In case of potential jurisdiction of more than one board.

Proviso—six mile limit on counties under 20,000.

(6) miles from the limits of any class of city or town, incorporated or unincorporated, within such county, and in counties exceeding twenty thousand (20,000) population said limits shall not extend beyond twelve (12) miles from the limits of any city or town, incorporated or unincorporated, within such county."

Twelve mile limit on counties over 20,000.

Amending clause.

Section 4. That section 11-3842, Revised Codes of Montana, 1947, as enacted by chapter 246, laws of 1957, be, and the same is hereby amended to read as follows:

Approval and endorsement of planning board required for filing of record.

"11-3842. **Plats of subdivisions — Approval by planning board.** After a master plan and an ordinance, containing provisions for subdivision control and the approval of plats and re-plats, have been adopted and a certified copy of the ordinance has been filed with the county clerk and recorder, a plat of a subdivision shall not be filed with the county clerk and recorder or the city or town clerk unless *compliance with the master plan* has first been approved *and endorsed upon the plat* by the planning board having jurisdiction over the area.

"Nothing herein contained shall be interpreted to usurp the present powers of the city or county governments, but shall add an additional requirement before any plat may be filed of record or entitled to be recorded."

Amending clause.

Section 5. That section 11-3852, Revised Codes of Montana, 1947, as enacted by chapter 246, laws of 1957, be, and the same is hereby amended to read as follows:

City and county powers regarding building and zoning regulations.

"11-3852. *City and county* **powers regarding building and zoning regulations.** As an integral part of the planning of areas so that the object of this legislation as set out in section 11-3801 may be further accomplished, any city council *or board of county commissioners* that is represented on a planning board created under the authority of this act may exercise all of the powers granted *to said city council or board of county commissioners, respectively,* by sections *11-2701* through *11-2710* over all lands within *the* territorial jurisdiction *of the planning board,* as such jurisdiction is set forth in section 11-3830."

Amending clause.

Section 6. That section 11-3853, Revised Codes of Montana, 1947, as enacted by chapter 246, laws of 1957, be, and the same is hereby amended to read as follows:

"11-3853. **Act not to prevent recovery and use of mineral or forest** *or agricultural* **resources.** Nothing in this act shall be deemed to authorize an ordinance, *resolution,* rule, or regulation which would prevent the complete use, development, *or* recovery of any mineral, forest, *or agricultural resources* by the owner thereof."

Act not to prevent use of mineral, forest or agricultural resources.

Section 7. That section 11-3854, Revised Codes of Montana, 1947, as enacted by chapter 246, laws of 1957, be, and the same is hereby amended to read as follows:

Amending clause.

"11-3854. **Exercise of zoning commission powers and duties.** Where a city council *and/or board of county commissioners* is represented on an existing planning board, the duties and powers of the 'zoning commission' provided for in section 11-2706, *Revised Codes of Montana, 1947,* shall be performed by the planning board of which such city *and/or board of county commissioners* is a member."

Duties of zoning commission performed by planning board.

Section 8. That sections 11-3809, 11-3841, 11-3849 and 11-3850, Revised Codes of Montana, 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 16, 1959.

CHAPTER 272

An Act to Amend Section 77-117 of the Revised Codes of Montana, 1947, Replacement Volume 5, Relating to the Adjutant-General of the state and the Assistant Adjutant-General; Providing That the Adjutant-General Shall Have the Rank of Major-General; Designating His Qualifications and Experience; Providing for a Salary; Providing for Replacement of the Adjutant-General; Repealing Subsections Twelve and Thirteen of Section 77-120 of the Revised Codes of Montana, Replacement Volume 5; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 77-117, Revised Codes of Montana, 1947, replacement volume 5, be, and the same is hereby amended to read as follows:

Amending clause.

Appointment and qualifications of adjutant-general.

"77-117 (1346) **The adjutant-general of the state — Assistant adjutant-general.** There shall be an adjutant-general of the State of Montana, who shall be appointed by the governor, and shall have the rank of *major general.*

Term.

He shall hold office *for* the term for which the governor appointing him shall have been elected, *and until his successor shall have been appointed. He shall be selected from the active list of the national guard of this state and shall have been federally recognized in the rank of major or above immediately prior to his appointment. He shall have had at least ten (10) years of service as an officer of the active national guard of this state during the fifteen (15) years immediately prior to his appointment.* He shall perform the duties prescribed for him in this chapter and in the regulations now or hereafter issued thereunder, and in the statutes of the United States now or hereafter enacted, and such duties as pertain to the duties of the chiefs of staff departments.

Duties.

Salary.

The salary of the adjutant-general shall be seventy-five hundred dollars ($7,500.00) per annum, provided, however, that no part of said salary shall be paid by the state when the adjutant-general is on extended active duty with the United States military service or is receiving pay as a civilian employee of the federal government; provided that if, by reason of the call or draft of officers of the Montana national guard into the federal service, there are no officers of the national guard possessing the requisite qualifications as set forth above for appointment, then any officer of the national guard may be appointed as acting adjutant-general.

Appointment and qualifications of assistant adjutant-general.

There shall be an assistant adjutant-general of the State of Montana, who shall be appointed by the adjutant-general, with the approval of the governor. He shall be commissioned in the Montana national guard with rank not lower than that of captain. He shall assist the adjutant-general in the performance of his statutory duties, and, during the incapacity or absence from the state of the adjutant-general, shall act in his stead.

Repealing clause.

Section 2. Subsection twelve and subsection thirteen of section 77-120, Revised Codes of Montana, 1947, replacement volume 5, in conflict herewith are hereby repealed.

Repealing clause.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 17, 1959.

CHAPTER 273

An Act to Amend Section 69-2701 of the Revised Codes of Montana, 1947, as Amended by Section 1 of Chapter 136 of the Montana Session Laws of 1957, Relating to the Definition of Fireworks, to Provide More Adequate Definition for Fireworks for the Purposes of This Act; to Amend Section 69-2702 of the Revised Codes of Montana, 1947, and Section 69-2704 of the Revised Codes of Montana, 1947, Relating to the Sale or Use of Fireworks as Herein Defined; to Amend Section 69-2706 of the Revised Codes of Montana, 1947, Relating to Penalties, to Provide for Penalties for Violations of This Act; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 69-2701, Revised Codes of Montana, 1947, as amended by chapter 136 of the laws of 1957, be, and the same is hereby amended to read as follows:

Fireworks prohibited.

"69-2701. **Fireworks** *prohibited and* **defined for the purposes of this act.**

a. It shall be unlawful to sell, transport or use any fireworks within the State of Montana except as hereinafter provided.

Prohibited "fireworks" defined.

b. The term 'fireworks' shall mean and include any combustible, or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, *and shall include sky rockets, Roman candles, Daygo bombs, blank cartridges, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, sparklers or other fireworks of like construction and any fireworks containing any explosive of flammable compound or any tablets or other device containing any explosive substance. Nothing in this law shall be construed as applying to toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap, and to the manufacture, storage, sale or use of signals necessary for the safe oper-*

ation of railroads or other classes of public or private transportation, nor applying to the military or navy forces of the United States or of this state, or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, or theatrical, or athletic events.

Permissible fireworks.

c. It shall be lawful for any individual, firm, partnership, corporation or association to possess for sale within the state, sell or offer for sale, at retail, or use, within the State of Montana, the permissible fireworks herewith enumerated.

Permissible fireworks shall include dangerous articles and, more specifically, shall include and be limited to the following, but specifically excluding sky rockets, Roman candles and Daygo bombs:

(1) Helicopter type spinners, total pyrotechnic composition not to exceed twenty grams each in weight;

(2) Cylindrical fountains, total pyrotechnic composition not to exceed twenty-five grams each in weight. The inside tube diameter shall not exceed ¾ inch;

(3) Cone fountains, total pyrotechnic composition not to exceed fifty grams each in weight;

(4) Wheels, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of driver tubes shall not be over ½ inch;

(5) Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed one hundred grams each in weight;

(6) Sparklers and dipped sticks, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate shall not exceed five grams;

(7) Firecrackers with soft casings, the external dimensions of which do not exceed one and one-half inches in length or one-quarter inch in diameter, total pyrotechnic composition not to exceed two grains each in weight;

(8) Whistles without report, total pyrotechnic composition not to exceed forty grams each in weight;

d. No person, firm or corporation shall offer fireworks of any kind as defined herein for sale at retail before the 24th day of June and after the 5th day of July.

e. It shall be unlawful for any individual, firm, partnership or corporation to discharge or cause to be discharged any pyrotechnics of any description whatever within the exterior boundaries of any state forest, or state park, or state recreation area.

Section 2. That section 69-2702, of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"69-2702. **Supervised public display of fireworks.** Except as hereinafter provided, it shall be unlawful for any person, firm, co-partnership, association or corporation to *possess*, offer for sale, expose for sale, sell, or use or explode any fireworks; provided that the state fire marshal and the governing body of any city, town or township or county shall have power, under reasonable rules and regulations adopted by it, to grant permits for supervised public displays of fireworks to be held therein by municipalities, fair associations, amusement parks, and other organizations or groups of individuals. Every such display shall be handled by a competent operator to be approved by the state fire marshal or by the governing body of the municipality in which the display is to be held and shall be of such a character, and so located, discharged or fired as in the opinion of the chief of the fire department or such other officer as may be designated by the governing body of the municipality, after proper inspection, shall not be hazardous to property or endanger any person or persons. Application for permits shall be made in writing at least fifteen (15) days in advance of the date of the display. After such privilege shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. The term 'municipalities' shall include cities, incorporated towns or townships."

Permits for supervised display of fireworks.

Section 3. That section 69-2704, of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

Where act does not apply.

"69-2704. **Where act does not apply.** Nothing in this act shall be construed to prohibit the sale of any kind of fireworks *to* a person holding a permit from any municipality at the display covered by such permits; or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or when used in quarrying or blasting or other industrial use, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or organizations composed of veterans of the United States army, navy, or marine corps."

Amending clause.

Section 4. That section 69-2706, of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Penalties.

"69-2706. **Penalties.** Any person, firm, co-partnership, association or corporation violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine *of not less than* one hundred dollars ($100.00) *nor more than five hundred dollars ($500.00);* or in the case of individuals, the members of a partnership and the responsible officers and agents of an association or corporation, by imprisonment in the county jail for a period of not *less than thirty (30) days nor more than six (6) months,* or by both such fine and imprisonment."

Repealing clause.

Section 5. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1959.

CHAPTER 274

An Act to Amend Section 23-902 of the Revised Codes of Montana, 1947, as Amended by Section 12 of Chapter 214 of the Session Laws of the Thirty-third Legislative Assembly, 1953, and as Amended by Section 1 of Chapter 266 of the Session Laws of the Thirty-fourth Legislative Assembly, 1955; to Amend Section 23-909 of the Revised Codes of Montana, 1947, as Amended by Section 2 of Chapter 266 of the Session Laws of the Thirty-fourth Legislative Assembly, 1955; to Amend Section 23-1006 of the Revised Codes of Montana, 1947 as Amended by Chapter 55 and by Section 14 of Chapter 214 of the Session Laws of the Thirty-third Legislative Assembly, 1953, and as Amended by Section 5 of Chapter 266 of the Session Laws of the Thirty-fourth Legislative Assembly, 1955, Relating to Primary Elections, the Purpose Thereof, Candidates to be Nominated, Providing That Political Party Nominations Still be Made Exclusively as Herein Provided, Providing for Holding State Conventions and Membership Thereof and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 23-902 of the Revised Codes of Montana, 1947, as amended by section 12 of chapter 214 of the session laws of the Thirty-third Legislative Assembly, 1953, and as amended by section 1 of chapter 266 of the session laws of the Thirty-fourth Legislative Assembly, 1955, be, and the same is hereby amended to read as follows:

Date of holding primary elections—purpose.

"23-902. (632) **Date of holding primary election—Purpose of.** On the first Tuesday of June, preceding any general election not including special elections to fill vacancies, municipal elections in towns and cities, irrigation district and school elections, at which public officers in this state and in any district or county are to be elected, a primary nominating election shall be held in accordance with this act in the several election precincts comprised within the territory for which such officers are to be elected at the ensuing election, which shall be known as the primary nominating election, for the purpose of choosing candidates by the political parties, subject to the provisions of this act, for United States senators and representatives, in congress and all other elective state, district and county officers, and delegates to any constitutional convention or conventions that may hereafter be called, who are to be chosen, at the ensuing election wholly by electors within the state, or any subdivision of this state, and also for choosing and electing county central committeemen and committeewomen by the several parties subject to the provisions of this act."

Amending clause.

Section 2. That section 23-909 of the Revised Codes of Montana, 1947, as amended by section 2 of chapter 266 of the session laws of the Thirty-fourth Legislative Assembly, 1955 be and the same is hereby amended to read as follows:

Political party nominations made exclusively as herein provided.

"23-909 (639) **Political party nominations made exclusively as herein provided.** Every political party which has cast three per centum (3%) or more of the total vote cast for representative in congress at the next preceding general election in the county, district or state for which nominations are proposed to be made, shall nominate its candidates for public office in such county, district or state, under the provisions of this law, and not in any other manner; and it shall not be allowed to nominate any candidate in the manner provided by section 23-801.

Exclusive use of party name.

Every political party and its regularly nominated candidates, members, and officers, shall have the sole and exclusive right to the use of the party name and the whole thereof, and no candidate for office shall be permitted to use any word of the name of any other political party or organization than that of and by which he is nominated. No independent or nonpartisan candidate shall be permitted to use any word of the name of any existing political party or organization in his candidacy. The names of candidates for public office nominated under the provisions of this law shall be printed on the official ballots for the ensuing election as the only candidates of the respective parties for such public office in like manner as the names of the candidates nominated by other methods are required to be printed on such official ballots.

Nominations to be made under section 23-801, R.C.M., 1947.

"Any political party that did not cast three per centum (3%) or more of the total vote cast for representative in congress, as above, and any new political party about to be formed or organized, make nominations for public office as provided in section 23-801.

Amending clause.

Section 3. That section 23-1006 of the Revised Codes of Montana, 1947, as amended by chapter 55 and by section 14 of chapter 214 of the session laws of the Thirty-third Legislative Assembly, 1953, and as amended by section 5 of chapter 266 of the session laws of the Thirty-fourth Legislative Assembly, 1955, be, and the same is hereby amended to read as follows:

"Section 23-1006 (673.6) **Time of state convention—Election of presidential electors and delegates to national convention.** Not later than fifteen (15) days after said county convention and on a date set by the chairman of the state central committee, the delegates (or alternate delegates, in case any elected delegate cannot attend), shall hold a state convention at the state capital in Helena, Montana, for the purpose of electing delegates and alternates to the national convention of the parties and presidential electors. That the delegates and alternate delegates to the national conventions of each political party shall consist of three (3) delegates from each of the congressional districts, and the remaining delegates and alternates from the state at large."

Time of state convention.

Number of delegates.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 17, 1959.

CHAPTER 275

An Act to Amend Section 48-130 of the Revised Codes of Montana, 1947, Relating to the Written Declaration of Marriage Without Solemnization; Providing That Premarital Test Certificate Shall be Obtained and Attached to the Declaration and Filed With the Clerk of the Court; Providing for the Contents of the Declaration of Marriage; Providing for a Repealing Clause; and Providing for an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 48-130 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Amending clause.

"48-130. (5724) **Declaration of marriage** *without solemnization*—**How made**—Persons *desiring to consum-*

Declaration of marriage without solemnization—procedure.

mate a marriage by written declaration in this state without the solemnization provided for in section 48-116 must *prior to executing the declaration, secure the premarital test certificate required by section 48-134, which shall be firmly attached to the declaration and shall be filed by the clerk of the district court in the county where the contract was executed. Any such declaration of marriage shall substantially contain the following:*

1. The names, ages, and residences of the parties;

2. The fact of marriage;

3. *Name of father, maiden name of mother, of both parties, and address of each;*

4. *That both parties are legally competent to enter into the marriage contract.*

Such declaration must be subscribed by the parties and attested by at least two (2) witnesses, and formally acknowledged before the clerk of the district court of said county. Unless all the provisions of this act shall be complied with the marriage shall be deemed invalid.''

Unlawful to draw declaration unless admitted to practice law.

Section 2. *It shall be unlawful for any person, other than the parties to such written declaration, to draw any such declaration of marriage unless he shall have been duly licensed to practice law in the State of Montana.*

Penalty.

Section 3. *Any person violating the provisions of this act, upon conviction shall be subject to a fine of not less than three hundred dollars ($300.00) or six (6) months in a county jail, or both.*

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1959.

CHAPTER 276

An Act to Amend Sections 48-131 and 48-132 of the Revised Codes of Montana, 1947, Relating to the Written

Declaration of Solemnized Marriages When the Records of Such Marriages Have Been Lost or Destroyed; Providing for the Contents of the Written Declaration, the Witnessing Thereof and Acknowledgment and the Filing Thereof With the Clerk of the District Court; Providing for a Repealing Clause and Providing for an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 48-131 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Declaration of marriage as proof of solemnized marriage.

"48-131. (5725) *Proof of solemnized marriage when no record—How made.* If *the* record of the solemnization of a marriage heretofore *entered into has been lost or destroyed, and not* known to exist, the parties may join in a written declaration of such marriage, substantially showing:

1. The names, ages and residences of the parties;

2. *The date, and place of marriage and other pertinent facts of the marriage*;

3. That *the* record of *the solemnized* marriage *has become lost or destroyed, as the case may be, and* is *not* known to exist."

Amending clause.

Section 2. Section 48-132 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Declaration to be acknowledged and recorded.

"48-132. (5726) **Declaration to be acknowledged and recorded.** *The written declaration of marriage, provided for in section 48-131, shall be attested by at least two (2) witnesses and formally acknowledged by an official authorized to administer oaths in the State of Montana. The filing of the declaration with the clerk of the district court in the county of the residence of the parties shall serve as an official record of the marriage of the parties.*"

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1959.

CHAPTER 277

An Act Concerning the Ascertainment of Principal and Income and the Apportionment of Receipts and Expenses Among Tenants and Remaindermen, and to Make Uniform the Law With Reference Thereto; Containing a Repealing Clause and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions—"principal."

Section 1. "Principal" as used in this act means any realty or personalty which has been so set aside or limited by the owner thereof or person thereto legally empowered that it and any substitutions for it are eventually to be conveyed, delivered or paid to a person, while the return therefrom or use thereof or any part of such return or use is in the meantime to be taken or received by or held for accumulation for the same or another person;

"Income."

"Income" as used in this act means the return derived from principal;

"Tenant."

"Tenant" as used in this act means the person to whom income is presently or currently payable, or for whom it is accumulated or who is entitled to the beneficial use of the principal presently and for a time prior to its distribution;

"Remainderman."

"Remainderman" as used in this act means the person ultimately entitled to the principal, whether named or designated by the terms of the transaction by which the principal was established or determined by operation of law;

"Trustee."

"Trustee" as used in this act includes the original trustee of any trust to which the principal may be subject and also any succeeding or added trustee.

Section 2. This act shall govern the ascertainment of income and principal, and the apportionment of receipts and expenses between tenants and remaindermen, in all cases where a principal has been established with or, unless otherwise states hereinafter, without the interposition of a trust; except that in the establishment of the principal, provision may be made touching all matters covered by this act, and the person establishing the principal may himself direct the manner of ascertainment of income and principal and the apportionment of receipts and expenses or grant discretion to the trustee or other person to do so, and such provision and direction, where not otherwise contrary to law, shall control notwithstanding this act.

Act governs ascertainment of income and principal and apportionment of receipts and expenses.

Section 3. (1) All receipts of money or other property paid or delivered as rent of realty or hire of personalty or dividends on corporate shares payable other than in shares of the corporation itself, or interest on money loaned, or interest on or the rental or use value of property wrongfully withheld or tortiously damaged, or otherwise in return for the use of principal, shall be deemed income unless otherwise expressly provided in this act.

Receipts of rent, dividends and interest.

(2) All receipts of money or other property paid or delivered as the consideration for the sale or other transfer, not a leasing or letting, of property forming a part of the principal, or as a repayment of loans, or in liquidation of the assets of a corporation, or as the proceeds of property taken on eminent domain proceedings where separate awards to tenant and remainderman are not made, or as proceeds of insurance upon property forming a part of the principal except where such insurance has been issued for the benefit of either tenant or remainderman alone, or otherwise as a refund or replacement or change in form of principal, shall be deemed principal unless otherwise expressly provided in this act. Any profit or loss resulting upon any change in form of principal shall inure to or fall upon principal.

Receipts of sale or transfer, repayment of loans, liquidation of assets, proceeds from eminent domain proceedings, insurance.

(3) All income after payment of expenses properly chargeable to it shall be paid and delivered to the tenant or retained by him if already in his possession or held for accumulation where legally so directed by the terms of the transaction by which the principal was established;

Income paid—principal held.

while the principal shall be held for ultimate distribution as determined by the terms of the transaction by which it was established or by law.

Payment of income in event of termination of tenancy.

Section 4. Whenever a tenant shall have the right to income from periodic payments, which shall include rent, interest on loans, and annuities, but shall not include dividends on corporate shares, and such right shall cease and determine by death or in any other manner at a time other than the date when such periodic payments should be made, he or his personal representative shall be entitled to that portion of any such income next payable which amounts to the same percentage thereof as the time elapsed from the last due date of such periodic payments to and including the day of the determination of his right is of the total period during which such income would normally accrue. The remaining income shall be paid to the person next entitled to income by the terms of the transaction by which the principal was established. But no action shall be brought by the trustee or tenant to recover such apportioned income or any portion thereof until after the day on which it would have become due to the tenant but for the determination of the right of the tenant entitled thereto. The provisions of this section shall apply whether an ultimate remainderman is specifically named or not. Likewise when the right of the first tenant accrues at a time other than the payment dates of such periodic payments, he shall only receive that portion of such income which amounts to the same percentage thereof as the time during which he has been so entitled is of the total period during which such income would normally accrue; the balance shall be a part of the principal.

Dividends payable in shares of corporation are principal.

Section 5. (1) All dividends on shares of a corporation forming a part of the principal which are payable in the shares of the corporation shall be deemed principal. Subject to the provisions of this section, all dividends payable otherwise than in the shares of the corporation itself, including ordinary and extraordinary dividends and dividends payable in shares or other securities or obligations of corporations other than the declaring corporation, shall be deemed income. Where the trustee shall have the option of receiving a dividend either in cash or in the shares of the declaring corporation, it shall

Option dividends deemed income.

be considered as a cash dividend and deemed income, irrespective of the choice made by the trustee.

Rights to subscribe to shares.

(2) All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in such corporation, and the proceeds of any sale of such rights, shall be deemed principal. All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in another corporation, and the proceeds of any sale of such rights, shall be deemed income.

Distribution on liquidation of assets of corporation.

(3) Where the assets of a corporation are liquidated, amounts paid upon corporate shares as cash dividends declared before such liquidation occurred or as arrears of preferred or guaranteed dividends shall be deemed income; all other amounts paid upon corporate shares on disbursement of the corporate assets to the stockholders shall be deemed principal. All disbursements of corporate assets to the stockholders, whenever made, which are designated by the corporation as a return of capital or division of corporate property shall be deemed principal.

Merger, consolidation or reorganization of corporation.

(4) Where a corporation succeeds another by merger, consolidation or reorganization or otherwise acquires its assets, and the corporate shares of the succeeding corporation are issued to the shareholders of the original corporation in like proportion to, or in substitution for, their shares of the original corporation, the two corporations shall be considered a single corporation in applying the provisions of this section. But two corporations shall not be considered a single corporation under this section merely because one owns corporate shares of or otherwise controls or directs the other.

Date of accrual.

(5) In applying this section the date when a dividend accrues to the person who is entitled to it shall be held to be the date specified by the corporation as the one on which the stockholders entitled thereto are determined, or in default thereof the date of declaration of the dividend.

Section 6. Where any part of the principal consists

Value of obligations for payment of money.

of bonds or other obligations for the payment of money, they shall be deemed principal at their inventory value or in default thereof at their market value at the time the principal was established, or at their cost where purchased later, regardless of their par or maturity value; and upon their respective maturities or upon their sale any loss or gain realized thereon shall fall upon or enure to the principal.

Net profits of continued business.

Section 7. (1) Whenever a trustee or a tenant is authorized by the terms of the transaction by which the principal was established, or by law to use any part of the principal in the continuance of a business which the original owner of the property comprising the principal had been carrying on, the net profits of such business attributable to such principal shall be deemed income.

Ascertainment of net profits of business of buying and selling property.

(2) Where such business consists of buying and selling property, the net profits for any period shall be ascertained by deducting from the gross returns during and the inventory value of the property at the end of such period, the expenses during and the inventory value of the property at the beginning of such period.

Other business.

(3) Where such business does not consist of buying and selling property, the net income shall be computed in accordance with the customary practice of such business, but not in such way as to decrease the principal.

Increase in value of principal or losses.

(4) Any increase in the value of the principal used in such business shall be deemed principal, and all losses in any one calendar year, after the income from such business for that year has been exhausted, shall fall upon principal.

Animals and offspring.

Section 8. Where any part of the principal consists of animals employed in business, the provisions of section 7 shall apply; and in other cases where the animals are held as a part of the principal partly or wholly because of the offspring or increase which they are expected to produce, all offspring or increase shall be deemed principal to the extent necessary to maintain the original number of such animals and the remainder shall be deemed income; and in all other cases such offspring or increase shall be deemed income.

Section 9. Where any part of the principal consists of property in lands from which may be taken timber, min-

Principal consisting of land containing resources, timber, minerals, oil, gas, etc.

erals, oils, gas or other natural resources and the trustee or tenant is authorized by law or by the terms of the transaction by which the principal was established to sell, lease or otherwise develop such natural resources, and no provision is made for the disposition of the net proceeds thereof after the payment of expenses and carrying charges on such property, such proceeds, if received as rent on a lease, shall be deemed income, but if received as consideration, whether as royalties or otherwise, for the permanent severance of such natural resources from the lands, shall be deemed principal to be invested to produce income. Nothing in this section shall be construed to abrogate or extend any right which may otherwise have accrued by law to a tenant to develop or work such natural resources for his own benefit.

Principal consisting of land subject to depletion.

Section 10. Where any part of the principal consists of property subject to depletion, such as leaseholds, patents, copyrights and royalty rights, and the trustee or tenant in possession is not under a duty to change the form of the investment of the principal, the full amount of rents, royalties or return from the property shall be income to the tenant; but where the trustee or tenant is under a duty, arising either by law or by the terms of the transaction by which the principal was established, to change the form of the investment, either at once or as soon as it may be done without loss, then the return from such property not in excess of five per centum (5%) per annum of its fair inventory value or in default thereof its market value at the time the principal was established, or at its cost where purchased later, shall be deemed income and the remainder principal.

Non-income producing realty or personalty—delayed income.

Section 11. (1) Where any part of a principal in the possession of a trustee consists of realty or personalty which for more than a year and until disposed of as hereinafter stated has not produced an average net income of at least one per centum (1) per annum of its fair inventory value or in default thereof its market value at the time the principal was established or of its cost where purchased later, and the trustee is under a duty to change the form of the investment as soon as it may be done without sacrifice of value and such change is delayed, but is made before the principal is finally distributed, then the tenant, or in case of his death his personal representative, shall be entitled to share in the net proceeds received from the property as delayed income to the extent hereinafter stated.

Computation of delayed income. (2) Such income shall be the difference between the net proceeds received from the property and the amount which, had it been placed at simple interest at the rate of five per centum (5%) per annum for the period during which the change was delayed, would have produced the net proceeds at the time of change, but in no event shall such income be more than the amount by which the net proceeds exceed the fair inventory value of the property or in default thereof its market value at the time the principal was established or its cost where purchased later. The net proceeds shall consist of the gross proceeds received from the property less any expenses incurred in disposing of it and less all carrying charges which have been paid out of principal during the period while it has been unproductive.

Time of delay of change. (3) The change shall be taken to have been delayed from the time when the duty to make it first arose, which shall be presumed in the absence of evidence to the contrary, to be one (1) year after the trustee first received the property if then unproductive, otherwise one (1) year after it became unproductive.

Reduction of share of delayed income. (4) If the tenant has received any income from the property or has had any beneficial use thereof during the period while the change has been delayed, his share of the delayed income shall be reduced by the amount of such income received or the value of the use had.

Successive tenants. (5) In the case of successive tenants the delayed income shall be divided among them or their representatives according to the length of the period for which each was entitled to income.

Expenses paid out of income. Section 12. (1) All ordinary expenses incurred in connection with the trust estate or with its administration and management, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the estates of both tenant and remainderman, interest on mortgages on the principal, ordinary repairs, trustees' compensation except commissions computed on principal, compensation of assistants, and court costs and attorneys' and other fees on regular accountings, shall be paid out of income. But such expenses where incurred in disposing of, or as carrying charges on, unproductive estate as defined in section 11, shall be paid out of principal, subject to the provisions of subsection (2) of section 11.

Exception.

Expenses paid out of principal.

(2) All other expenses, including trustees' commissions computed upon principal, cost of investing or reinvesting principal, attorneys' fees and other costs incurred in maintaining or defending any action to protect the trust or the property or assure the title thereof, unless due to the fault or cause of the tenant, and costs of, or assessments for, improvements to property forming part of the principal, shall be paid out of principal. Any tax levied by any authority, federal, state or foreign, upon profit or gain defined as principal under the terms of subsection (2) of section 3 shall be paid out of principal, notwithstanding said tax may be denominated a tax upon income by the taxing authority.

Taxes.

Accrual and apportionment of expenses.

(3) Expenses paid out of income according to subsection (1) which represent regularly recurring charges shall be considered to have accrued from day to day, and shall be apportioned on that basis whenever the right of the tenant begins or ends at some date other than the payment date of the expenses. Where the expenses to be paid out of income are of unusual amount, the trustee may distribute them throughout an entire year or part thereof, or throughout a series of years. After such distribution, where the right of the tenant ends during the period, the expenses shall be apportioned between tenant and remainderman on the basis of such distribution.

Costs or taxes of improvement resulting in additional value.

(4) Where the costs of, or special taxes or assessments for, an improvement representing an addition of value to property held by the trustee as part of principal are paid out of principal, as provided in subsection (2), the trustee shall reserve out of income and add to the principal each year a sum equal to the cost of the improvement divided by the number of years of the reasonably expected duration of the improvement.

Expenses where no trust was created.

Section 13. (1) The provisions of section 12, so far as applicable and excepting those dealing with costs of, or special taxes or assessments for, improvements to property, shall govern the apportionment of expenses between tenants and remaindermen where no trust has been created, subject, however, to any legal agreement of the parties or any specific direction of the taxing or other statutes; but where either tenant or remainderman has incurred an expense for the benefit of his own estate and without the consent or agreement of the other, he shall pay such expense in full.

Expenses incurred without consent.

Expenses incurred for improvements resulting in additional value for limited time.

(2) Subject to the exceptions stated in subsection (1) the cost of, or special taxes or assessments for, an improvement representing an addition of value to property forming part of the principal shall be paid by the tenant, where such improvement cannot reasonably be expected to outlast the estate of the tenant. In all other cases a portion thereof only shall be paid by the tenant, while the remainder shall be paid by the remainderman. Such portion shall be ascertained by taking that percentage of the total which is found by dividing the present value of the tenant's estate by the present value of an estate of the same form as that of the tenant except that it is limited for a period corresponding to the reasonably expected duration of the improvement. The computation of present values of the estates shall be made on the expectancy basis set forth in the American Experience Tables of Mortality and no other evidence of duration or expectancy shall be considered.

Uniform act.

Section 14. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Title.

Section 15. This act may be cited as the Uniform Principal and Income Act.

Repealing clause.

Section 16. All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

Effective immediately.

Section 17. This act shall take effect upon its passage and approval and shall apply to all estates of tenants or remaindermen which become legally effective after that date.

Approved March 17, 1959.

CHAPTER 278

An Act Amending Section 75-4103, of the Revised Codes of Montana, 1947, Providing for the Election and the Term of Office of County High School Trustees, and Stating the Qualifications for Voting at Such Election; Providing for a Petition to Be Signed by Fifteen Per Cent of the Qualified Voters Requesting the Election; Providing for the County Commissioners to Submit the Question to a Vote of the People of the High School District Whether School Trustees of County High School District Shall Be Elected; Providing for the Election of Said Trustees When the People Approve by Majority Vote; Providing That If a Majority of All the Votes Cast Be in Favor of Electing a Board of Trustees, Then the Provisions of Sections 75-4104 and 75-4105 of the Revised Codes of Montana, 1947, Shall No Longer Be Applicable; Providing That Upon the Election and Qualification for Office of All Seven of the Elected Trustees, the County Superintendent of Schools Shall No Longer Be a Member of the Board of Trustees; Providing for the Nominations of the Candidates for County High School Boards, and for the Procedures and Regulations Necessary for the Calling and Holding of the Annual Election of Such County High School Trustees, and for Their Assumption of Office; Providing for the Filling of Vacancies on the County High School Boards; Establishment of Trustee Districts; and Containing a Repealing Clause; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-4103 of the Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Board of trustees of county high schools—appointment.

"75-4103. (1262.3) **Board of trustees of county high school.** Every county high school shall be under the general supervision and control of a board of trustees consisting of seven members, one of whom shall be the county superintendent of schools of the county wherein such county high school is located, and six of whom shall be appointed by the board of county commissioners of the said county. *Provided, however, whenever the county com-*

Proviso—for election by majority vote.

missioners receive a petition signed by fifteen per cent of the qualified electors in the county high school district requesting the election, the county commissioners of the county shall within not less than thirty days nor more than sixty days thereafter, submit to the electors in the county high school district the following question:

Shall the board of trustees of the county high school district be elected?

☐ *For the election of trustees.*

☐ *Against the election of trustees.*

If a majority of all of the votes cast be in favor of electing a board of trustees, then the provisions of sections 75-4104 and 75-4105 of the Revised Codes of Montana, 1947, shall no longer be applicable, but the following sections shall apply:

Qualification of trustees.

Four of the trustees to be elected shall come from the elementary school district in which the county high school is located, and the county commissioners and the county superintendent of schools shall immediately district the remaining portion of the county high school district into three trustee districts, and each district shall be entitled to one member on the county high school board.

Time of election and term of office.

The election of seven school trustees of the county high school shall be held on the first Saturday in April of every year to fill the expired terms of trustees, and the term of office of trustees after the first election of the county high school board shall be for three years. However, at the first election, four of the trustees elected shall be residents of the elementary school district where the high school is situated and three of the trustees elected shall be residents of the respective trustee districts set up by the board of county commissioners and the county superintendent of schools.

Term of office at first election.

At the first election the four trustees elected from the elementary school district where the high school is located shall cast lots to determine which two shall hold office for one year, which one for two years and which one for three years. The three trustees elected from the trustee districts set up by the board of county commissioners and the county superintendent of schools shall cast lots to de-

termine which one shall hold office for one year, which one for two years and which one for three years.

Procedure for holding elections. *The procedure for calling and holding elections, and for the assumption of office, for first class school districts, set forth in R. C. M. 1947, section 75-1607 through 75-1613, shall govern the elections provided for in this act, the words "clerk of the district and county superintendent of schools" being synonymous with "the county clerk and recorder" when the former is used in the sections referred to, and the words "board of trustees" being synonymous with the words "county commissioners", if a majority of all the votes cast be in favor of electing a board of trustees of the county high school. Upon the election and qualification for office as hereinbefore set forth of all seven of the elected trustees, the county superintendent of schools shall no longer be a member of the board of trustees.*

Nominations filed. *Any twenty-five electors qualified to vote in the election, shall file with the county clerk and recorder of the county, the nominations of as many persons as are to be elected to the county high school board at the elections herein provided for, at least twenty days preceding the election. The county clerk and recorder shall cause the names to be printed on a ballot not inconsistent with the provisions of the law relating to the election of other candidates.*

Eligibility. *Every citizen of the United States of the age of twenty-one years or over who has resided in the State of Montana for one year, and thirty days in the elementary school district or the trustee district as designated above, next preceding the election, shall be eligible for the office of school trustee and entitled to vote thereat.*

Absence constituting vacancy. *Absence from the school district or trustee district for sixty consecutive days, or failure to attend three consecutive meetings of the board of trustees without good cause, shall constitute a vacancy in the office of trustee.* **Appointment in event of vacancy.** *When a vacancy occurs in the county high school board from any cause whatever, the fact shall be immediately certified by the secretary of the high school board to the board of trustees of the high school who shall immediately appoint, in writing, a qualified person, resident of the school or trustee district where the vacancy occurs and who shall* *serve until the next election as stated herein. At the next election, a new trustee shall be elected to fill the unexpired portion of the vacated term, from the district in which the vacancy occurs.*

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1959.

CHAPTER 279

An Act Directing the State Examiner to Examine the Accounts and Books of the University System for the Biennium Ending June 30, 1959, and Each Biennium Thereafter; Repealing All Acts and Parts of Acts in Conflict Therewith; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Duty of state examiner to audit books of university system.

Section 1. The state examiner is hereby directed to examine and audit the accounts and books of the various units of the university of Montana system for the biennium ending June 30, 1959, and each biennium thereafter, and has authority to employ such clerical, accounting and other personnel as may be deemed necessary by him to carry out the provisions of this act. Such examination shall include within reason, but not limited to, the verification of all fees collected and their disposition, the tabulation of expenditures made from each of the appropriations granted by the legislative assembly, the consideration of all claims and expenditures as to their fund allocation and validity, the analysis of the sources of funds applied to the redemption of revenue bonds outstanding, the segregation of expenses allocated to buildings and activities designated as self liquidating, and any investigation as may be requested by the Montana state board of education.

Section 2. It shall be the duty of the fiscal officer and other employees of each educational unit to furnish to the state examiner or his representative, when requested by him, all information, records, and books of account required in the course of the examination, and to render such assistance as may be required.

Duty of fiscal officer to furnish records to state examiner.

Section 3. The state examiner shall report to the governor and the state board of education of the state of Montana, the results of such examination and audit, which report shall be available to the legislative council and legislative assembly.

Report of state examiner.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 17, 1959.

CHAPTER 280

An Act to Protect Livestock from Injury by Dogs; Providing That It May Be Unlawful to Keep a Dog Over the Age of Five (5) Months Without an Identifying License Tag; Providing for the Issuance of Dog License Tags and Kennel Licenses by County Treasurers and the Fees Therefor; Providing for the Issuance of Dog License Tags by Municipal Corporations Under the Provisions of This Act; Providing for the Impounding of Unlicensed Dogs Running at Large by Law Enforcement Officers and a Fee Therefor; Providing That County Commissioners May Provide for the Impounding and Disposition of Dogs Running at Large Contrary to the Provisions of This Act, and Authorizing Them to Appoint a County Pound Master to Enforce This Act or to Enter Into Contracts With Others to Perform Such Duties; Providing That Impounded Dogs Shall Not Be Disposed of Without Notice to the Owner, if Known, or Before Seventy-two (72) Hours Have Elapsed After Impounding Nor, in the Case of Dogs Suspected of Rabies, Before Release by the County Health Officer; Providing for the Fixing of Pound Fees and Charges by the Board of County

Commissioners and the Payment Thereof from the County Treasurer or by the Owner of Such Impounded Dog; Providing That Failure of the Owner of a Dog to Pay Pound Fees and Charges After Notice of Impounding Constitutes Abandonment of the Dog; Providing That Fees and Fines Collected Under This Act Shall Be Paid into the County Treasury for the Enforcement of This Act; Providing That Violation of This Act shall Constitute a Misdemeanor; Providing That the Owner of Livestock or Poultry Killed or Injured by a Dog or Dogs May Recover Damages from the Owner or Owners Thereof and That Lack of Knowledge of the Dog's Disposition or Whereabouts Shall Constitute no Defense to Said Action; Defining the Word "Owner" in Relation to Dogs; Providing That If Any Part of This Act Is Adjudged Invalid, Inoperative or Unconstitutional, Such Decision Shall Not Affect, Impair or Invalidate the Remaining Portions of This Act; and Providing for the Repeal of All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Dog license tag required.

Section 1. It shall be unlawful where this act applies for any person to own, harbor or keep any dog over the age of five (5) months, or to permit such a dog owned, harbored or controlled by him to run at large, unless the dog has attached to its neck a substantial collar on which is fastened a license tag issued by the authority of a county or a municipal corporation for the purpose of identifying the dog and designating the owner; provided, however, that it shall be lawful to remove such collar and license tag when such dog is under the immediate control of its owner or his agent.

Board of county commissioners to provide for issuance of dog license tags.

Section 2. The board of county commissioners of any county in the State of Montana may provide for the annual issuance of serially numbered dog license tags, stamped with the name of the county and the year of issue, which shall be issued by the county treasurer to owners of dogs who make application and pay the dog license fee, or to owners of kennels who make application and pay the kennel license fee. The license year shall commence on the first day of July and end on the

Application for dog license.

thirtieth day of the following June. Each application, except by a kennel owner, shall state the age, sex, color, and breed of the dog for which the license is desired and the address of the owner. An application for a kennel license shall state the name and address of the owner of the kennel. The term "kennel" shall mean any establishment wherein or whereon five (5) or more dogs are kept for the purpose of boarding, breeding, sale, sporting or commercial purposes.

Application for kennel license.

Fees and tags.

Section 3. The county treasurer shall endorse upon the application for a dog license tax the number of the license tag issued. The fee for the issuance of a dog license tag shall be one dollar ($1.00), but the board of county commissioners may increase the fee to not more than five dollars ($5.00) if deemed advisable for proper administration of this act. The fee for issuance of a kennel license shall be five dollars ($5.00), but the board of county commissioners may increase the fee to not more than twenty dollars ($20.00) if deemed advisable for proper administration of this act. Upon issuance of a kennel license, the county treasurer shall deliver to the applicant ten (10) serially numbered license tags stamped with the name of the county and the year of issue. Such tags shall be made in a form so that they are readily distinguishable from individual license tags for that year. Such tags may be transferred from one dog to another within the kennel. The kennel owner shall retain such license tags when he sells or otherwise disposes of a dog. All applications for dog license tags and kennel licenses, endorsed with the numbers of the license tags issued thereunder, shall be kept on file in the office of the county treasurer open to public inspection.

Compliance.

Section 4. Any dog license tag issued annually by any municipal corporation pursuant to an ordinance which substantially complies with this act and which provides for the wearing of the license tag upon the collar of the dog and the keeping of a record which will establish the identity of the person who owns, keeps or harbors the dog constitutes compliance with the licensing provisions of this act.

Power to impound dogs without tags.

Section 5. Any dog found running at large without a valid current dog license tag issued by the authority of a county or municipal corporation pursuant to the provisions of this act, may be seized and impounded by any sheriff, deputy sheriff, policeman, game warden, county pound master or other law enforcement officer.

Duty of board to provide for impounding and disposal.

Section 6. The board of county commissioners of each county where this act applies shall provide for the taking up and impounding of all dogs found running at large contrary to the provisions of this act and for the killing in some humane manner or other disposition of any dog impounded.

Appointment of county pound master.

Section 7. The board of county commissioners may appoint a county pound master and fix the compensation for his services whose duties shall be to take up, impound and kill dogs under this act, and otherwise enforce the provisions of this act, or the board of county commissioners may enter into a contract with any humane society or other person, organization or association which will undertake to carry out the provisions of this act regarding the taking up, impounding and killing of dogs, and which shall give a proper bond in whatever amount may be fixed by the board of county commissioners for the faithful performance of the contract. The board of county commissioners may also enter into contracts with muncipal corporations for the use by the county or by the municipal corporation of the impounding facilities of the other.

Notice to owner.

Section 8. No dog impounded under the provisions of this act shall be killed or otherwise disposed of without notice to the owner, if he is known, and no dog so impounded shall be killed before seventy-two (72) hours have elapsed from the time of the taking up of the dog; provided, however, that any impounded dog suspected of having rabies or known to have bitten any human or animal, shall not be killed or otherwise disposed of until released by the county health officer or his agent.

Proviso—dogs suspected of having rabies.

Fixing of fees.

Section 9. The board of county commissioners shall fix the fee for impounding any dog and the amount to be paid for keeping the dog.

Payment of fees and pound charges.

Section 10. The fees and pound charges for taking up and impounding and for keeping the dogs shall be a charge against the county treasury, to be paid as other claims against the county are paid; provided, however, that in any case where a dog so impounded is claimed by the owner, the fee for impounding and keeping the dog as fixed by the board of county commissioners, shall be paid by the owner to the person, organization or association having custody of the dog, to be retained by him or them, and no charge for fees pertaining to the dog shall be paid by the county.

Abandonment.

Section 11. The refusal or failure of the owner of any such dog to pay the pound fee and charges after due notification shall be held to be an abandonment of the dog by the owner.

Fees and fines paid into county treasury.

Section 12. All fees for the issuance of dog license tags, kennel licenses, and all fines collected under the provisions of this act shall be paid into the county treasury and shall be used to pay fees, salaries, costs, expenses, or any or all of them for the enforcement of this act.

Misdemeanor.

Section 13. Violation of any provision of this act shall constitute a misdemeanor.

Liability of dog owners.

Section 14. The owner of livestock or poultry injured or killed by any dog may recover as liquidated damages from the owner of the dog, the actual value of the animals killed or the value of the damages sustained by reason of the injuries as the case may be. If two or more dogs kept by two or more owners or keepers injure or kill any livestock or poultry at the same time, the owners or keepers of the dogs are jointly and severally liable for such damages. It shall be no defense to said action that the owner or keeper of the dog had no knowledge of the dog's whereabouts at or prior to the time when the dog injured or killed livestock or poultry or that the owner or keeper of the dog had no knowledge of the dog's disposition or inclination to worry, kill or injure livestock or poultry.

"Owner" defined.

Section 15. The word "owner" when used in this act in relation to property in or possession of, dogs, shall include every person who owns, harbors or keeps a dog.

Savings clause.

Section 16. If any part of this act shall be adjudged invalid, inoperative or unconstitutional, such decision shall not affect, impair or invalidate any other part of this act.

Repealing clause.

Section 17. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 17, 1959.

CHAPTER 281

An Act to Amend Section 75-3804, Revised Codes of Montana, 1947, Relating to the Form and Marking of Ballots in School District Elections; Substituting the Word "Levies" in the Form of the Ballot; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 75-3804, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Ballot form—school district elections—additional levies.

"75-3804. (1222) **Form and marking of ballot—Conduct of election.** The ballot furnished electors at said election shall have printed thereon the following: 'Shall a levy be made in addition to the *levies* authorized by law in such number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy) for the purpose of (insert the purpose for which the additional tax levy is made)?'

☐ For an additional levy to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) mills.

☐ Against an additional tax levy to raise the sum of (state amount to be raised by additional tax levy), and being approximately (give number) mills.

"The voters shall mark the ballots in the same manner as ballots are marked under the election laws of this state. The election shall be held, votes canvassed and returns made as in other school elections. If the majority voting on the question are in favor of such additional levy, the board of trustees of said school district shall so certify to the board of county commissioners of the county in which said school district is situated the amount authorized by such election to be raised by such additional levy and such board of county commissioners shall make such additional levy in such number of mills as will raise such amount in the same manner that the levy for special taxes in said district is made.''

Section 2. All acts and parts in conflict herewith are hereby repealed. **Repealing clause.**

Approved March 17, 1959.

CHAPTER 282

An Act Relating to and Regulating the Retail Installment Selling and Financing of Goods, Including Motor Vehicles and Services; to Define Terms Used Herein; to Require the Licensing of Sales Finance Companies; to Vest the Administration and Enforcement of This Act in the Office of the State Superintendent of Banks; to Prescribe the Powers, Duties, Authority and Jurisdiction of Such Superintendent of Banks With Respect to This Act; to Authorize the Adoption and Promulgation of Rules and Regulations; to Prescribe and Regulate the Form and Content of Contracts Covering the Retail Installment Sale of Goods and Services; to Regulate the Inclusion of Insurance in a Retail Installment Sale; to Limit the Amount of the Finance Charge That Can be Made for Such Retail Installment Sales; to Regulate Delinquency Charges and the Refinancing of Such Retail Installment Sales; to Require a Partial Refund of Such Charges on Prepayment; to Make Certain Acts Unlawful and Providing Penalties for Violations of This Act; Providing for Waiver and Severability.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Short title.** This act may be cited as the ''Montana retail installment sales act.'' **Title.**

Definitions.

Section 2. **Definitions.** Unless otherwise clearly indicated by the context, the following words when used in this act, for the purposes of this act, shall have the meanings respectively ascribed to them in this section:

"Goods."

(a) ''Goods'' means all chattels personal, including motor vehicles and merchandise certificates or coupons exchangeable for chattels personal, but not including money or things in action. The term includes goods which, at the time of the sale or subsequently, are to be so affixed to realty as to become a part thereof whether or not severable therefrom.

"Services."

(b) ''Services'' means work, labor and services furnished in the delivery, installation, servicing, repair or improvement of goods.

"Motor vehicle."

(c) ''Motor vehicle'' means any new or used automobile, mobile home, motorcycle, truck, trailer, semitrailer, truck tractor, and all vehicles with any power, other than muscular power, primarily designed or used to transport persons or property on a public highway, excepting however, any vehicle which runs only on rails or tracks or in the air.

"Retail buyer" or "buyer."

(d) ''Retail buyer'' or ''buyer'' means a person who buys goods or obtains services from a retail seller in a retail installment transaction under a retail installment contract and not for the purpose of resale.

"Retail seller" or "seller."

(e) ''Retail seller'' or ''seller'' means a person who sells goods or furnishes services to a retail buyer under a retail installment contract.

"Retail installment transaction."

(f) ''Retail installment transaction" means a contract to sell or furnish or the sale or furnishing of goods or services by a retail seller to a retail buyer under a retail installment contract for a time sale price payable in one or more deferred installments.

"Retail installment contract" or "contract."

(g) ''Retail installment contract'' or ''contract'' means an agreement evidencing a retail installment transaction entered into in this state pursuant to which a buyer promises to pay in one or more deferred installments the time sale price of goods and/or services. The term includes a chattel mortgage, conditional sales contract and a contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or for no further or a merely nominal consideration has the option of becoming, the owner of the goods upon full compliance with the provisions of the contract.

"Cash sale price."

(h) ''Cash sale price'' means the price stated in a retail installment contract for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of the retail installment contract, if such sale had been a sale for cash at a cash price instead of a retail installment transaction at a time sale price. The cash sale price may include any taxes, registration, certificate of title, license and official fees, and cash sale prices for services, if any, and for accessories and their installation and for delivery, servicing, repairing or improving the goods.

"Official fees."

(i) ''Official fees'' means the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction.

"Principal balance."

(j) ''Principal balance'' means the cash sale price of the goods or services which are the subject matter of the retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits and official fees, minus the amount of the buyer's down payment in money or goods.

"Finance charge."

(k) ''Finance charge'' means the amount, as limited by section 8 hereof, in addition to the principal balance, agreed upon between the buyer and the seller, to be paid by the buyer for the privilege of purchasing goods or services to be paid for by the buyer in one or more deferred installments.

"Time sale price."

(l) ''Time sale price'' means the total of the cash sale price of the goods or services and the amount, if any, included for insurance and other benefits if a separate identified charge is made therefor and the amounts of the official fees and the finance charge.

"Sales finance company."

(m) "Sales finance company" means a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more sellers. The term includes but is not limited to a bank, trust company, investment company, Morris Plan company or savings and loan asssociation, if so engaged. The term shall not include a person who makes only isolated purchases of retail installment contracts, which purchases are not being made in the course of repeated and successive purchases of retail installment contracts from the same seller.

"Holder."

(n) "Holder" of a retail installment contract means the retail seller of the goods or services under the contract, or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee.

"Person."

(o) "Person" means an individual, partnership, corporation, asssociation, and any other group however organized.

"Superintendent."

(p) "Superintendent" means the state superintendent of banks of the State of Montana.

Words.

(q) Words in the singular include the plural, the masculine includes the feminine and the neuter and vice versa.

Act does not apply to banking.

(r) This act shall have no application to the lending of money by banks or other lending institutions and securing loans by chattel mortgages of goods in the ordinary course of lending by such banks or other lending institutions.

Licensing of sales finance companies required.

Section 3. **Licensing of sales finance companies required.** (a) No person shall engage in the business of a sales finance company in this state without a license therefor as provided in this act: Provided, however, that no bank, trust company or savings and loan association authorized to do business in this state shall be required to obtain a license under this act but shall comply with all of the other provisions of this act.

(b) The application for such license shall be in writing, under oath and in the form prescribed by the superintendent. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, and such other pertinent information as the superintendent may require.

Application for license.

(c) The license fee for each calendar year or part thereof shall be the sum of one hundred dollars ($100) for each place of business of the licensee in this state.

Fee.

(d) Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case such location be changed, the superintendent shall endorse the change of location of the license without charge.

Display.

(e) Upon the filing of such application, and the payment of said fee, the superintendent shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of this act for a period which shall expire the last day of December next following the date of its issuance. Such license shall not be transferable or assignable. No licensee shall transact any business provided for by this act under any other name.

Issuance.

Section 4. **Denial, suspension or revocation of licenses.** (a) Renewal of a license originally granted under this act may be denied, or a license may be suspended or revoked by the superintendent on the following grounds: (1) Material misstatement of fact in the application for license; (2) wilful failure to comply with any provision of this act relating to retail installment contracts; (3) defrauding any retail buyer to the buyer's damage; (4) fraudulent misrepresentation, circumvention or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the retail buyer under this act.

Denial, suspension or revocation.

(b) If a licensee is a partnership, association or cor-

Cause.

poration, it shall be sufficient cause for the suspension or revocation of a license that any officer, director or trustee of a licensed association or corporation, or any member of a licensed partnership, has so acted or failed to act as would be cause for suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of any or all of his employees while acting as his agent, if such licensee after actual knowledge of said acts retained the benefits, proceeds, profits or advantage accruing from said acts or otherwise ratified said acts.

Hearing on order to show cause.

(c) No license shall be denied, suspended or revoked, except after hearing thereon. The superintendent shall give the licensee at least ten (10) days written notice, in the form of an order to show cause, of the time and place of such hearing by registered mail addressed to the principal place of business in this state of such licensee. The said notice shall contain the grounds of complaint against the licensee. Any order suspending or revoking such license shall recite the grounds upon which the same is based. The order shall be entered upon the records of the superintendent and shall not be effective until after thirty (30) days' written notice thereof given after such entry forwarded by registered mail to the licensee at such principal place of business. No revocation, suspension or surrender of any license shall impair or affect the obligation of any lawful retail installment contract acquired previously thereto by the licensee.

Right to writ of review.

(d) Any person, licensee, or applicant, considering himself aggrieved by an order of the superintendent may within thirty (30) days from the entry of the order complained of, apply for writ of review in accordance with the provisions of chapter 90 of title 93 of the Revised Codes of Montana of 1947.

Power of superintendent to investigate.

Section 5. **Investigations and complaints.** (a) The superintendent, or his duly authorized representatives, shall have the power to make such investigations as he shall deem necessary and, to the extent necessary for this purpose, he may examine such licensee or any other person and shall have the power to compel the production of all relevant books, records, accounts and documents.

Complaint by retail buyer.

(b) Any retail buyer having reason to believe that this act relating to his retail installment contract has been violated may file with the superintendent a written complaint setting forth the details of such alleged violation and the superintendent, upon receipt of such complaint, may inspect the pertinent books, records, letters and contracts of the licensee and of the retail seller involved, relating to such specific written complaint.

Powers and duties of superintendent.

Section 6. **Powers of superintendent.** (a) The superintendent shall adopt and promulgate such rules and regulations as shall be necessary to carry out the intent and purposes of this act. All rules and regulations of general application shall be filed in the office of the superintendent. A copy of every such rule or regulation shall be mailed to each licensee, postage prepaid, at least fifteen (15) days in advance of its effective date: Provided, however, the failure of a licensee to receive a copy of such rules or regulations shall not exempt him from the duty of compliance with such rules and regulations lawfully promulgated hereunder.

Subpoenas and oaths.

(b) The superintendent shall have power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before him in any matter over which he has jurisdiction, control or supervision pertaining to this act. The superintendent shall have the power to administer oaths and affirmations to any person whose testimony is required.

Process of subpoena.

(c) If any person shall refuse to obey any such subpoena, or to give testimony, or to produce evidence as required thereby, any judge of the district court of the county in which the licensed premises are located may, upon application and proof of such refusal, make an order awarding process of subpoena or subpoena duces tecum for the witness to appear before the superintendent and to give testimony, and to produce evidence as required thereby. Upon filing such order, in the office of the clerk of the said court, the clerk shall issue process of subpoena, as directed, under the seal of said court, requiring the person to whom it is directed, to appear at the time and place therein designated.

Attachment.

(d) If any person served with any such subpoena shall refuse to obey the same, and to give testimony, and to produce evidence as required thereby, the superintendent may apply to the judge of the court issuing such subpoena for an attachment against such person, as for a contempt. The judge, upon satisfactory proof of such refusal, shall issue an attachment, directed to any sheriff, constable or police officer, for the arrest of such person, and upon his being brought before such judge, proceed to a hearing of the case. The judge shall have power to enforce obedience to such subpoena, and the answering of any question, and the production of any evidence that may be proper by a fine, not exceeding one hundred dollars ($100), or by imprisonment in the county jail, or by both fine and imprisonment, and to compel such witness to pay the costs of such proceeding to be taxed.

Penalty.

Requirements of sales contracts.

Section 7. **Requirements and prohibitions as to retail installment contracts.** (a) Each retail installment contract shall be in writing, shall be signed by both the buyer and the seller, and shall be completed as to all essential provisions prior to the signing of the contract by the buyer. However, if a retail installment transaction is a sale of goods other than a motor vehicle where no title, lien or other security interest is retained or taken by the seller, then the retail installment contract need not be contained in a single document. In such cases, if the contract is contained in more than one document, then one such document may be an original document executed by the retail buyer applicable to purchases of goods or services to be made by the retail buyer from time to time and in such case such document, together with the sales slip, account book or other written statement relating to each purchase, shall set forth all of the information required by this section and shall constitute the retail installment contract for each such purchase.

Printed contracts.

Size type.

(b) The printed portion of the contract, other than instructions for completion, shall be in at least eight (8) point type. The contract shall contain the following notice in a size equal to at least ten (10) point bold type:

Notice to buyer.

1. "Notice to the buyer. Do not sign this contract before you read it or if it contains any blank spaces.

2. "You are entitled to an exact copy of the contract you sign. **Copy.**

3. "Under the law, you have the right to pay off in advance the full amount due and to obtain a partial refund of the finance charge." **Advance payoff.**

Contract for sale of motor vehicle—size type.

(c) If the contract covers the sale of a motor vehicle, it shall also contain, in a size equal to at least ten (10) point bold type, a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included if that is the case.

Copy to buyer.

Right to rescind.

Acknowledgment—size type.

(d) The seller shall deliver to the buyer or mail to him at his address shown in the contract, a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the goods or been furnished the services shall have the right to rescind his agreement and to receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract, or if such goods cannot be returned, the value thereof. Any acknowledgment by the buyer of delivery of a copy of the contract shall be in a size equal to at least ten (10) point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

Information required in contract.

(e) The contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods sold or services furnished or to be furnished, and shall clearly state and describe any collateral security taken for the buyer's obligation.

Items required in contract.

(f) The contract shall contain the following items: (1) The cash sale price of the goods or services; (2) the amount of the buyer's down payment, and whether made in money or goods, or partly in money and partly in goods, including a brief description of the goods traded in; (3) the difference between items one and two; (4) the amount, if any, included for insurance and other benefits if a separate charge is made therefor, specifying the types of coverage and benefits; (5) the amount of official fees; (6) the principal balance which is the sum of items three, four and five; (7) the amount of the finance charge; (8) the total amount of the time balance stated as one sum in dollars and cents, which is the sum of items six and seven, payable in installments by the buyer to the seller, the number of installments, the amount of each installment and the due date or period thereof.

The above items need not be stated in the sequence or order set forth; additional items may be included to explain the computations made in determining the amount to be paid by the buyer.

Limitation on insurance charges.

(g) The amount, if any, included for insurance, which may be purchased by the holder of the contract, shall not exceed the applicable premiums chargeable in accordance with the rates filed with the insurance department of this state where such rates are required by law to be approved by said department. All such insurance shall be written by an insurance company authorized to do business in this state and shall be countersigned by a duly licensed resident agent authorized to engage in the insurance business in this state. A buyer may be required to provide insurance on the goods at his own cost for the protection of the seller or holder, as well as the buyer, but such insurance shall be limited to insurance against substantial risk of loss, damage or destruction of the goods. Any other insurance may be included in a retail installment transaction at the buyer's expense only if contracted for voluntarily by the buyer. If such insurance for which such identified charge is made insures the life, safety or health of the buyer or his interest in the goods and is purchased by the holder, the holder shall within thirty (30) days after the execution of the retail installment contract send or cause to be sent to the buyer a policy or policies or certificate or certificates of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and, if a policy, all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of insurance, or, if a certificate, a summary thereof. The seller shall not decline existing insurance written by an insurance company authorized to do business in this state and the buyer shall have the privilege of purchasing insurance from an agent or broker of his own selection and of selecting his insurance company:

Insurance requirements.

Policy.

Existing insurance.

Provided, however, that the insurance company shall be acceptable to the holder, which acceptance shall not be unreasonable or arbitrarily withheld, and further, that the inclusion of the cost of the insurance premium in the retail installment contract when the buyer selects his agent, broker or company, shall be optional with the seller.

On cancellation of insurance.

(h) If any insurance is canceled, or the premium adjusted, any refund of the insurance premium received by the holder, shall be credited to the final maturing installment of the contract except to the extent applied toward payment for a similar insurance protecting the interests of the buyer and the holder or either of them.

Transfer of equity.

(i) A buyer may transfer his equity in the goods at any time to another person upon agreement by the holder, but in such event the holder of the contract shall be entitled to a transfer of equity fee which shall not exceed fifteen dollars ($15.00).

Fee.

Delinquency charge.

(j) The holder may collect a delinquency charge on each installment in default for a period not less than ten (10) days in an amount not in excess of five per cent (5%) of each installment or five dollars ($5.00), whichever is less or, in lieu thereof, interest after maturity on each such installment not exceeding the highest lawful contract rate. In addition to such delinquency charge, the contract may provide for the payment of attorneys' fees not exceeding fifteen per cent (15%) of the amount due and payable under such contract where such contract is referred for collection to an attorney not a salaried employee of the holder of the contract and for court costs and actual and reasonable out-of-pocket expenses incurred in connection with such delinquency.

Attorneys fees.

Signing of contract.

(k) No retail installment contract shall be signed by any party thereto when it contains blank spaces to be filled in after it has been signed except that, if delivery of the goods is not made at the time of the execution of the contract, the identifying numbers or marks of the goods or similar information and the due date of the first installment may be inserted in the contract after its execution. The buyer's written acknowledgment, conforming to the requirements of section 7 (d) of this section, of delivery of a copy of a contract shall be conclusive proof of such delivery, that the contract when signed, did not contain any blank spaces except as herein provided, and of compliance with this section 7 in any action or proceeding by or against a holder of the contract without knowledge to the contrary when he purchases the contract.

Statement of payments.

(l) Upon written request from the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A buyer shall be given a written receipt for any payment when made in cash.

Release on full payment.

(m) After payment of all sums for which the buyer is obligated under a contract, and upon written demand made by the buyer, the holder shall deliver or mail to the buyer, at his last known address, one or more good and sufficient instruments to acknowledge payment in full and shall release all security in the goods or in any collateral security.

Finance charge limitation.

Section 8. **Finance charge limitation.** (a) Notwithstanding the provisions of any other law, the finance charge included in a retail installment transaction shall not exceed the following schedule:

(1) As to motor vehicles:

Class 1. Any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made—seven dollars ($7) per one hundred dollars ($100) per year.

Class. 2. Any new motor vehicle not in class 1 and any used motor vehicle designated by the manufacturer by a year model of the same or not more than two (2) years prior to the year in which the sale is made—nine dollars ($9) per one hundred dollars ($100) per year.

Class 3. Any used motor vehicle not in class 2 and designated by the manufacturer by a year model more than two (2) years prior to the year in which the sale is made—eleven dollars ($11) per one hundred dollars ($100) per year.

(II) As to services and goods other than motor vehicles: (i) On so much of the principal balance as does not exceed three hundred dollars ($300), eleven dollars ($11), per one hundred dollars ($100) per year; (ii) if the principal balance exceeds three hundred dollars ($300), but is less than one thousand dollars ($1,000), nine dollars ($9) per one hundred dollars ($100) per year on that portion over three hundred dollars ($300); (iii) if the principal balance exceeds one thousand dollars ($1,000), seven dollars ($7) per one hundred dollars ($100) per year on that portion over one thousand dollars ($1,000).

Computation—minimum.

(b) Such finance charge shall be computed on the principal balance as determined under section 7(f) of this act on contracts payable in successive monthly payments substantially equal in amount from the date of the contract until the maturity of the final installment, notwithstanding that the total time balance thereof is required to be paid in installments. A minimum finance charge of twenty dollars ($20) may be charged on any retail installment transaction.

(c) When a retail installment contract provides for payment, other than in equal successive monthly installments, the finance charge may be at a rate which will provide the same yield as is permitted on monthly payment contracts under subsections (a) and (b) hereof, having due regard for the schedule of payments in the contract.

Assignment of contract.

(d) Any sales finance company may purchase or acquire or agree to purchase or acquire from any seller any contract on such terms and conditions as may be agreed upon between them. Filing of the assignment, notice to the buyer of the assignment, and any requirement that the holder maintain dominion over the payments or the goods if repossessed shall not be necessary to the validity of a written assignment of a contract as against creditors, subsequent purchasers, pledgees, mortgagees and lien claimants of the seller. Unless the buyer has notice of the assignment of his contract, payment thereunder made by the buyer to the last known holder of such contract shall be binding upon all subsequent holders.

Notice to buyer.

Refunds on prepayment.

Section 9. **Refunds on prepayment.** Notwithstanding the provisions of any retail installment contract to the contrary, any buyer may prepay in full, at any time before maturity, the debt of any retail installment contract and in so paying such debt shall receive a refund credit thereon for such anticipation of payments. The amount of such refund shall represent at least as great a proportion of the finance charge as the sum of the monthly time balances beginning one (1) month after prepayment is made, bears to the sum of all the monthly time balances under the schedule of payment in the contract. Where the amount of credit is less than one dollar ($1.00) no refund need be made.

Refinancing.

Section 10. **Refinancing retail installment contract.** The holder of a contract, upon request by the buyer, may extend the scheduled due date of all or any part of any installment or installments, or defer payment or payments, or renew or restate the unpaid time balance of such contract, the amount of the installments and the time schedule therefor and may collect for such extension, deferment, renewal or restatement a refinance charge computed as follows: The holder may compute the refinance charge on the unpaid time balance to be extended, deferred, renewed or restated by adding to such unpaid time balance the cost for any insurance and other benefits incidental to the refinancing plus any accrued delinquency and collection charges, after deducting any refund which may be due the buyer as for a prepayment pursuant to section 9 of this act, at the rate of the finance charge specified in section 8 (a) of this act and by reclassifying in the case of motor vehicles by its then year model, for the term of the refinancing agreement, but otherwise subject to the provisions of this act governing computation of the original finance charge. The provisions of this act relating to minimum finance charges under section 8 (b) and an acquisition cost under section 9 shall not apply in calculating refinance charges on the contract extended, deferred, renewed or restated. If all unpaid installments are deferred for not more than two (2) months, the holder may at his election charge and collect for such deferment an amount equal to the difference between (a) the refund required for prepayment in full under section 9 as of the scheduled due date of the first deferred installment, and (b) the refund required for prepayment in full as of one

(1) month prior to said date, times the number of months in which no scheduled payment is made.

Section 11. **Penalties.** (a) Any person who shall knowingly violate any provision of this act or engage in the business of a sales finance company in this state without a license therefor as provided in this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment for not more than six (6) months or both. **Penalties.**

(b) Any person violating sections 7, 8, 9 or 10 of this act, except as the result of an accidental and bona fide error of computation, shall be barred from recovery of any finance charge, delinquency or collection charge on the contract. **Recovery denied.**

Section 12. **Waiver.** Any waiver of the provisions of this act shall be unenforceable and void. **Waiver void.**

Section 13. **Severability and constitutionality.** If any provisions of this act or the application thereof to any person or circumstance is held unconstitutional, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby, and it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision. **Severability and constitutionality.**

Approved March 18, 1959.

CHAPTER 283

An Act Relating to Loans and Interest and Other Charges and Expenses on Loans; to Define "Consumer Type Loan Business" and Certain Other Terms; to Regulate and License the Business of Making Consumer Type Loans in the Amount of One Thousand Dollars ($1,000) or Less; to Create the Office of Consumer Loan Commissioner, and to Provide for the Appointment and Compensation of a Consumer Loan Commissioner and to Prescribe the Powers, Duties, Authority and Jurisdiction of Such Commissioner; to Authorize the Adoption and Promulgation of Rules and Regulations; to

Make Certain Acts Unlawful and to Provide Penalties and Forfeitures for Violations of This Act; to Exempt Certain Businesses from the Provisions of This Act; to Prescribe Certain License and Other Fees; to Create a ''Consumer Loan Administration Fund'' to be Used to Administer and Enforce the Provisions of This Act; to Provide for the Issuance, Refusal, Suspension and Revocation of Licenses; to Provide for the Refund of Certain Precomputed Charges Where a Loan is Paid Prior to Maturity; to Authorize and Regulate the Issuance of Certain Insurance in Connection With Consumer Type Loans in the Amount of One Thousand Dollars ($1,000) and Less; to Authorize Investigations and Examinations by the Commissioner and to Provide for Examination Fees; to Require Licensees to Keep Certain Records and to Make Certain Reports; to Regulate Wage Assignment; to Provide for Appeals from Any Action or Order of the Commissioner; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Title.

Section 1. **Act, how cited.** This act may be cited as the Montana consumer loan act.

Definitions.

Section 2. **Definitions.** Unless otherwise clearly indicated by the context, the following words when used in this act, for the purposes of this act, shall have the meanings respectively ascribed to them in this section:

"Person."

(a) ''Person'' shall mean individuals, partnerships, associations, corporations and any and all legal entities in the loaning business.

"License."

(b) ''License'' shall mean the license provided for by this act.

"Licensee."

(c) ''Licensee'' shall mean the person holding any such license.

"Commissioner."

(d) ''Commissioner'' shall mean the consumer loan commissioner.

'Consumer type loan business."

(e) ''Consumer type loan business'' shall mean the business of making loans of one thousand dollars ($1,-

000) or less generally repayable in substantially equal installments.

Section 3. **Office of consumer loan commissioner, employees, appointment, compensation; commissioner; powers and duties; adoption of rules and regulations by commissioners;**

Office of consumer loan commissioner.

(a) There is hereby created the office of consumer loan commissioner, who shall be the bank examiner of the State of Montana. He is hereby authorized to appoint, employ, remove and prescribe the duties and fix the compensation of such employees as are necessary to properly discharge the duties of his office.

State bank examiner is commissioner.

(b) All powers and duties of regulation and supervision conferred by this act are vested in the commissioner. The commissioner shall adopt and promulgate such rules and regulations as shall be necessary to carry out the intent and purposes of this act. All rules and regulations of general application shall be filed in the commissioner's office and be open to the public. A copy of every such rule or regulation shall be mailed to each licensee, postage prepaid, at least fifteen (15) days in advance of its effective date: provided, however, the failure of a licensee to receive a copy of such rules or regulations shall not exempt him from the duty of compliance with such rules and regulations lawfully promulgated hereunder.

Powers and duties to regulate.

Copies to licensees.

(c) All valid rules and regulations adopted under the provisions of this act shall be binding upon all licensees and enforceable by the commissioner through the power of suspension or revocation of licenses.

Enforcement.

Section 4. (a) **Scope; prohibiting engaging in the business of making loans of one thousand dollars ($1,000) or less, except after having obtained a license; exemptions.** On or after July 1, 1959, no person shall engage in the business of making loans or advances of money on credit in amounts of one thousand dollars ($1,000) or less and contract for, charge, or receive directly or indirectly on or in connection with any such loan or advance, any charges whether for interest, compensation, consideration, or expense which in the aggregate are greater than ten per cent (10%) per annum, except as

Scope—loans of $1,000 or less.

provided in and authorized by this act. A person doing business under the authority of this state or the United States relating to banks, trust companies, savings or building and loan asssociations, credit unions, Morris Plan companies, or a person engaged in business as a licensed pawnbroker, or any person who shall extend credit in connection with the sale of a commodity shall not become a licensee under this act, nor shall any of the provisions of this act, relating to licensees, apply to any such exempted person who is not licensed hereunder.

Evasions.

(b) Evasions. The provisions of subsection (a) shall apply to any person who seeks to evade its applications by any device, subterfuge or pretense whatsoever.

Invalidity—penalty.

(c) Invalidity; penalty. Any contract of loan in the making or collection of which any act shall have been done which violates subsection (a) of this section shall be void and the lender shall have no right to collect, receive or retain any principal, interest, or charges whatsoever.

Loans limited to $1,000 or less.

Section 5. No licensee under the provisions of this act shall lend money in a total sum greater than one thousand dollars ($1,000.00) to any borrower.

Section 6. **License, when required; display; nontransferable; removal; license year, fees; consumer loan administration fund; use.**

Display of license.

(a) On and after July 1, 1959, each place of business operated under this act shall have and properly displayed therein, a nontransferable and nonassignable license. The same person may obtain additional licenses upon compliance with this act as to each license. Application for a license shall be on a form prescribed and furnished by the commissioner. A licensee may move his place of business from one place to another within a county without obtaining a new license, provided he obtains written permission from the commissioner.

Fees.

(b) Submitted with each application shall be fifty dollars ($50) as an investigation fee and one hundred twenty-five dollars ($125) as a license fee, which license fee shall be returned to the applicant if the application is denied. The license year shall be the calendar year and the license fee for any period less than six (6) months shall be sixty-two dollars fifty cents ($62.50). Each license shall remain in force until surrendered, suspended or revoked.

(c) All moneys collected under the authority of this act shall be paid into the state treasury by the commissioner.

Moneys paid into state treasury.

Section 7. **Issuance or denial of license, when; mailing of denial order and findings.** (a) Within thirty (30) days after an application for license is filed with the commissioner, together with the required fees, the commissioner shall issue the license if the character and general fitness of the applicant is such as to warrant belief that the business will be operated lawfully and fairly within the provisions of this act, or enter an order denying same, if he shall find to the contrary: Provided, however, that any person engaged in the consumer type loan business on December 31, 1958, shall receive a license upon filing the required application and fees within thirty (30) days after the effective date of this act.

Issuance or denial of license —when.

(b) A copy of the order granting or denying a license, together with a summary of the findings thereon, shall be filed in the office of the commissioner and shall be public record. A copy of the order denying a license, together with a summary of the findings thereon, shall be mailed postage prepaid, to the applicant at the address stated in the application.

Public record.

Section 8. **Conduct of other business in same office.** A licensee may conduct the business of making loans under this act within any office, room or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, unless the commissioner shall find, after a hearing, that the other business is of such nature that such conduct tends to conceal evasion of this act or of the rules and regulations made hereunder and shall order such licensee in writing to desist from such conduct.

Conduct of other business.

Section 9. **License renewal fee; failure to pay; effect; license; when in force.** Every licensee shall, on or before the first day of December, pay to the commissioner the

Renewal fee.

sum of one hundred twenty-five dollars ($125.00) for each license held as a licensee fee for the succeeding calendar year. Failure to pay such license fee within the time prescribed shall automatically revoke such license.

Maximum rate of charge.

Section 10. (a) **Maximum rate of charge.** Every licensee hereunder may contract for and receive on any loan of money not exceeding one thousand dollars ($1,000) in amount, charges not in excess of twenty dollars ($20) per year one hundred dollars ($100) on that part of the loan not exceeding three hundred dollars ($300); sixteen dollars ($16) per year per one hundred dollars ($100) on that part of the loan exceeding three hundred dollars ($300) but not exceeding five hundred dollars ($500), and twelve dollars ($12) per year per one hundred dollars ($100) on that part of the loan in excess of five hundred dollars ($500) but not exceeding one thousand dollars ($1,000) when the loan is made for a period of one year, and proportionately at these rates for a greater or lesser amount within said limits or for a greater or lesser period of time. Said charges shall be added to the principal of the loan and shall not be discounted or deducted therefrom nor paid or received at the time the loan is made. For the purpose of computing charges for a fraction of a month, a day shall be considered one-thirtieth of a month.

(b) On loans of ninety dollars ($90) or less a licensee may charge, in lieu of charges specified in (a) of this section, not in excess of one dollar ($1) for each five dollars ($5) of cash or credit advanced to the borrower, up to the amount of ninety dollars ($90); and a period of at least fifteen (15) days must be allowed for the repayment of each five dollars ($5) cash or credit advanced, such charges cannot be assessed by any subterfuge or device on any loan over ninety dollars ($90) or on any balance of ninety dollars ($90) or less, when the original loan was greater than ninety dollars ($90).

Refund computation.

(c) Refund. When any loan contract is paid in full by cash, a new loan, renewal or otherwise, one month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges which shall be due the borrower as determined by schedules prepared under the rule of 78ths or sum of the digits principle as follows: The amount of the refund or credit shall be as great a proportion of the total charges originally contracted for as the sum of the consecutive monthly balances of the contract scheduled to follow the date of prepayment bears to the sum of all the consecutive monthly balances of the contract, both sums to be determined according to the payment schedule originally contracted for.

Past due charges.

(d) If the contract so provides, the additional charge for any amount past due according to the original terms of the contract, whether by reason of default or extension agreement, may be five per cent (5%) of the amount past due and said amount may be charged once and no more.

Recording fees.

(e) Recording fees. The licensee may collect from the borrower the actual fees paid a public official, or agency of the state, for filing, recording or releasing any instrument securing the loan.

Any other charges void.

(f) No further charges, no splitting contracts; certain contracts void. No further or other charges shall be directly or indirectly contracted for or received by any licensee except those specifically authorized by this act. No licensee shall divide into separate parts any contract made for the purpose of or with the effect of obtaining charges in excess of those authorized by this act. All balances due to a licensee from any person, as a borrower, or as an endorser, guarantor or surety for any borrower or otherwise, or due from any husband or wife, jointly or severally, shall be considered a part of any loan being made by a licensee to such person for the purpose of computing interest or charges. If any amount in excess of the charges permitted by this act is charged, contracted for, or received, except as the result of an accidental and bona fide error of computation, the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, charges or recompense whatsoever.

Installment payment—contract period.

Section 11. **Installment payment — Contract period.** No licensee shall enter into any contract of loan of three hundred dollars ($300) or less, exclusive of charges, under this act which the borrower agrees to make any scheduled repayment of principal more than twenty-one (21) calendar months from the date of making such contract, nor any contract or loan for more than three hundred dollars ($300) exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than twenty-five (25) calendar months from the date of making. Every loan contract shall require payment of principal and charges in installments which shall be payable at approximately equal periodic intervals except that payment dates may be omitted to accommodate borrowers with seasonal incomes. No installment contracted for shall be substantially larger than any preceding installment. When a loan contract provides for monthly installments, the first installment may be payable at any time within forty-five (45) days of the date of the loan and the charges for the number of days in excess of thirty (30) from the date of making may be added to the scheduled amount of said installment.

Copy to borrower—provisions to be included in contract.

Section 12. (a) **Borrower to receive copy of contract; or statement of contents.** At the time the loan is made, there will be delivered to the borrower, or if there be two (2) or more borrowers, to one (1) of them a copy of the loan contract, or a written statement in the English language showing in clear and distinct terms:

(1) The name and address of the lender and of one of the borrowers or a maker of the loan;

(2) The date of the loan contract;

(3) The schedule of installments or description thereof;

(4) The principal amount of the loan excluding charges;

(5) The rate or amount of charges as the contract may provide;

(6) The amount collected or paid out for each kind of insurance, if any;

(7) The amount collected or paid out for filing and other fees as allowed in section 10 (e) hereof;

(8) The collateral or security for the loan including

all other accommodation or other joint makers (comakers);

(9) That the borrower may prepay the loan in whole or in part at any time during a licensee's regular business hours, and in case the charges have been added to the principal of the loan that such charges are subject to the refund requirements of section 10 (c) if such loan is prepaid in full.

(b) Receipts; return of note. Every licensee shall:

(1) Give to the borrower a plain and complete receipt in a form approved by the commissioner for every payment made on account of any loan at the time such payment is made.

(2) Endorse indelibly on a loan ledger or card which shall be kept by the licensee, the amount and date of each payment made by the borrower of the loan.

Release on full payment.

(3) Upon repayment of the loan in full, the licensee shall mark indelibly every obligation and security signed by the borrower with the word "Paid" or "Canceled" and release any mortgage, restore any pledge, and cancel and return to the borrower any note and any assignment given to the licensee, within ten (10) days after such repayment. Such canceled notes and canceled assignments shall be mailed to the borrower at his last known address unless returned to the borrower in person.

Confessions of judgment—incomplete instruments forbidden.

Section 13. **Confessions of judgment; incomplete instruments forbidden.** No licensee shall (1) take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for the borrower in a judicial proceeding; nor (2) take any note or promise to pay that does not disclose the amount of the loan, a schedule of payments or a description thereof, and the agreed charges; and in which blanks are left to be filled in after execution, however, such details need not appear on a certificate of title to a motor vehicle, a policy or certificate of insurance, a chattel mortgage or deed of trust covering future advances according to the law of the district or state where the property is located, or customary powers in connection with bonds or stocks which may be pledged as collateral; nor (3) take any instrument in which blanks are left to be filled in after the loan is made.

Insurance policies.

Section 14. **Insurance written with loans; types and limitation thereon; delivery of insurance policy.** (a) No insurance of any kind shall be written by a licensee, or employee, affiliate or associate of the licensee in connection with any loan where the principal amount thereof is three hundred dollars ($300) or less, and such amount of three hundred dollars ($300) shall not include any charge for interest, insurance or any other identifiable charge.

Insurance requirements.

(b) Insurance permitted under the provisions of this section shall be obtained through an insurance company authorized to conduct such business in Montana by a duly licensed agent or agency of this state. Premiums shall not exceed those fixed by law or current applicable manual rates. Insurance written, as authorized by this section, may contain a mortgagee clause or other appropriate provisions to protect the insurable interest of the licensee.

Property insurance.

(c) Property insurance. When the principal amount of the loan exceeds three hundred dollars ($300) exclusive of the portion thereof attributable to insurance premiums and charges, the licensee may require a borrower to insure tangible personal property offered as security against any substantial risk of loss, damage or destruction for an amount not to exceed the reasonable value of the property insured or the amount of the loan, whichever is smaller, and for the customary term approximating the term of the loan contract. It shall be optional with the borrower to obtain such insurance in an amount greater than the amount of the loan or for a longer term.

Existing insurance.

A licensee shall not require insurance under this subsection until any existing insurance of the same type has expired or has been canceled and the unearned portion of the premium for the canceled insurance has been rebated to the borrower.

Power to investigate.

Section 15. **Investigations, when; who may be investigated.** The commissioner or his duly authorized representatives may at any time investigate any transaction with borrowers and may examine the books, accounts and records in this state to discover violations of this act by (1) any licensee, (2) any person who advertises for, solicits or holds himself as willing to make loans in amounts of one thousand dollars ($1,000) or less, or (3) any person whom the commissioner has reason to believe is violating or is about to violate the provisions of this act.

Annual examinations.

Section 16. **Annual examinations; cost of examinations; limitations.** The commissioner shall make an annual examination of the books, accounts and records of every licensee insofar as they relate to transactions with borrowers under this act and may make such additional examinations as the commissioner deems necessary. The expenses of the commissioner incurred in the examination of the books and records of the licensees, shall be charged at the rate of sixty dollars ($60) per man days required to examine the books and records of the respective licensees. Each licensee shall be billed by the commissioner for the amount so charged to such licensee. If said charge is not paid within thirty (30) days after the mailing of such bill, the license of said licensee may be suspended or revoked.

Fee.

Enforcement.

Records required.

Section 17. **Records; time kept.** Each licensee shall keep in each licensed office such books, accounts and records as the commissioner shall require and as are necessary to enable the commissioner to determine whether the licensee is complying with this act and with the rules and regulations promulgated thereunder. The licensee shall preserve such records for at least two (2) years after making the final entry on any loan recorded thereon.

Annual report of licensee.

Section 18. **Annual report; contents; verified; publication.** Each licensee shall annually on or before the 15th day of April, file an annual report for the preceding calendar year with the commissioner. Such report shall give information with respect to the financial condition of such licensee and shall include: The name and address of the licensee; balance sheets at the beginning and end of the calendar year; a statement of income and expenses; a reconciliation of surplus or net earnings with the balance sheets; a schedule of assets used in the consumer loan business; an analysis of charges, size of loans made and types of security on loans; an analysis of suits and foreclosures; and such other relevant information as the commissioner may reasonably require concerning the business and operations during the preceding calendar year of each licensed place of business conducted by such licensee within the state. Such report shall be made under oath and be in form prescribed by the commissioner, who shall make and publish annually an analysis and recapitulation of such reports.

False advertising forbidden.

Section 19. **Advertising; limitations.** No person shall advertise, display, distribute, broadcast, or televise or permit to be displayed, advertised, distributed, broadcasted or televised, in any manner whatsoever, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions of loans.

Assignments of wages.

Section 20. **Wage assignments; limitations.** The payment in money, credit, goods or things in action, as consideration for any sale or assignment of, or order for the payment of wages, salary, commission, or other compensation for services, whether earned or to be earned, shall for the purpose of regulation under this act, be deemed a loan secured by such assignment, and the amount by which the assigned compensation exceeds the amount of the consideration actually paid, shall, for the purposes of regulation under this act, be deemed interest or charges upon the loan from the date of payment to the date the compensation is payable. Such transactions shall be governed by and be subject to the provisions of this act.

Limitation—requirements of assignment.

Any assignment or other transfer to a licensee or for the benefit of a licensee, of salary, wages, commissions or other compensation for services, must be limited to not exceeding ten per cent (10%) of such salary, wages, commissions or other compensation owing at the time of the notice to the debtor's employer, hereinafter provided, and thereafter to become owing. Provided, however, no such assignment or order shall be valid unless it is in writing, signed in person by the borrower, or if the borrower is married unless it is signed in person by both husband and wife, provided that written assent of a spouse shall not be required when husband and wife have been and are living separate and apart when such assignment or order is made. Such notice shall be given only if the debtor defaults in payment of the whole or some part of the loan for which such assignment or transfer is security. Such notice must be served on the employer or a managing agent of such employer, must be verified by the oath of the licensee or his agent and must include:

(a) A correct copy of the assignment.

(b) A statement of the amount of such loan and the amount due and unpaid thereon.

(c) A copy of this section. The acceptance and honoring of any assignment shall be at the option of the employer.

Surrender of license.

Section 21. **Surrender of license; surrender shall not affect liability for acts.** Any licensee may surrender any license by delivering it to the commissioner with written notice thereon but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender.

Existing contracts not impaired.

Section 22. **Pre-existing lawful contract not affected, when.** No revocation, surrender or expiration of any license shall impair or affect the obligation, of any pre-existing lawful contract.

Procedure for revocation or suspension of license.

Section 23. **Revocation and suspension of license, when.** The commissioner, upon ten (10) days written notice to the licensee and statement of the grounds therefor and upon reasonable opportunity to be heard at a public hearing, if requested by the licensee, may suspend, but not for more than thirty (30) days, or revoke any license issued hereunder if he finds the licensee has knowingly violated any provision of this act. Whenever the commissioner shall enter an order revoking or suspending a license, he shall mail a copy of his order by registered mail to the licensee at the address for which the license was issued.

Reinstatement.

Section 24. **Reinstatement, when.** The commissioner may reinstate any suspended or revoked license if no fact or condition then exists which clearly would have justified the commissioner in refusing originally to issue such license. In any case where the license has been revoked for cause no application shall be made for issuance of a new license or the reinstatement of a revoked license for a period of six (6) months from the date of revocation.

Appeals.

Section 25. **Appeals, procedure.** Any person, licensee, or applicant, considering himself aggrieved by an order of the commissioner, may within thirty (30) days from the entry of the order complained of, take an appeal to the district court of the county in which the licensed premises affected by such order or the premises sought to be licensed are located, by filing a notice of appeal with the clerk of the district court of the proper county.

Appeals may be taken from the district to the supreme court by the party appealing or by the commissioner as in civil cases except that the commissioner shall not be required to give a bond on appeal.

Powers of commissioner to examine premises and witnesses.

Section 26. **Access to records — Witnesses.** For the purpose of this section the commissioner or his duly authorized representatives shall have and be given free access to the offices and places of business, files, safes, and vaults, of all such persons, and shall have authority to require the attendance of any person and to examine him under oath relative to such loans or such business or to the subject matter of any examination, investigation or hearing and shall have authority to require the production of books, accounts, papers and records. In the event of disobedience to any subpoena or other process issued by the commissioner or failure to produce any books, accounts, papers and records, the commissioner may invoke the aid of any district court of this state in requiring the evidence and testimony of witnesses and the production of books, accounts, papers and records.

Subpoena.

Powers of commissioner to issue cease and desist orders.

Section 27. **Cease and desist orders — Injunctions — Receivers.** Whenever the commissioner has reasonable cause to believe that any person is violating or is threatening to violate any provision of this act, the commissioner, may, in addition to all actions provided for in this act and without prejudice thereto, enter an order requiring such person to desist or to refrain from such violation; and an action may be brought on the relation of the attorney general and the commissioner to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance thereof. In

Injunction.

any such action an order or judgment may be entered awarding such preliminary or final injunction as may be deemed proper. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which such action is brought shall have power and jurisdiction to impound, and to appoint a receiver for the property and business of the defendant, including books, papers, documents, and records pertaining thereto or so much thereof as the court may deem reasonably necessary to prevent violations of this act through or by means of the use of said property and business. Such receiver, when appointed and qualified, shall have such powers and duties as to custody, collection, administration, winding up, and liquidation of such property and business as shall from time to time be conferred upon him by court.

Jurisdiction of court to appoint receiver.

Section 28. **Penalties.** (a) Any person who shall contract for, or receive interest or charges on any bond, bill, promissory note or other instrument of writing, at a rate exceeding the maximum amount authorized by this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment for not more than six (6) months, or both.

Penalty for usury.

(b) Any person, who by any device, subterfuge or pretense whatsoever, shall engage in any transaction permitted only to licensees, under the provisions of the act, without first having obtained a license as herein required shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment for not more than six (6) months, or both.

Penalty for failure to have license.

Section 29. **Constitutionality.** If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section.

Savings clause.

Section 30. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 18, 1959.

CHAPTER 284

An Act to Amend Section 81-433 of the Revised Codes of Montana, 1947, as Amended by Chapter 190, Laws of the Thirty-first Legislative Assembly of Montana, 1949, and by Chapter 229, Laws of the Thirty-second Legislative Assembly of Montana, 1951, Relating to Rental Rates of State Grazing Lands Upon the Animal-Unit-Month Basis; to Provide for an Increase in the Rental Rates of State Grazing Lands by Use of a New Formula for Computation of Such Rates, and to Provide for the Repeal of All Acts and Parts of Acts in Conflict Herewith, and Providing for an Effective Date of Said Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 81-433, Revised Codes of Montana, 1947, originally enacted as section 2 of chapter 190, laws of the Thirty-first Legislative Assembly of Montana, 1949, and as said section 2 of said chapter 190, amended by section 1 of chapter 299, laws of the Thirty-second Legislative Assembly of Montana, 1951, be and the same is hereby amended to read as follows:

State board of land commissioners shall establish grazing rates—formula.

"81-433. The *S*tate *B*oard of *L*and *C*ommissioners shall establish the per annum rental rate per section of all grazing lands *which are the property of the State of Montana* upon the animal-unit-month basis as hereinafter provided.

"In fixing the minimum annual rental per section, the following formula shall be used:

"The proportional relationship between the average price per pound of *beef cattle* on the farm in Montana during the period between *the year* 1938 and *the year* 1947, inclusive *of both said years,* and the average grazing fee per animal-unit-per-month for said period shall be applied to the average price per pound of *beef cattle* on the farm in Montana for three years next preceding the fixing of the rental.

"The resulting figure shall be multiplied by, first, the carrying capacity of the land, and second, by twelve (12) so as to bring the rental from a monthly to an annual figure.

"The average price per *pound* of *beef cattle* on the farm in Montana during the *said* period between 1938 and 1947, inclusive, to be used in the above formula, is hereby declared to be ten and one-half cents ($.105).

"The average grazing fee per animal-unit-per-month *(herein abbreviated to A.U.M.)* for the *said* period between 1938 to 1947, inclusive, to be used in the above formula, is hereby declared to be *twenty-four cents (24¢).*

"The carrying capacity of the land, to be used in the above formula, shall be in accordance with the determinations of the *C*ommissioner of *S*tate *L*ands *and Investments* made pursuant to section *81-404, Revised Codes of Montana, 1947, originally enacted as section* 4 of chapter 207 of the laws of 1945.

"The average price per pound of *beef cattle* on the farm in Montana for the three years next preceding the fixing of the rental, to be used in the above formula, shall be taken from statistics published by the *B*ureau of *A*gricultural *E*conomics of the United States *D*epartment of *A*griculture *current at the time of computation of the rental,* or from other reliable sources *current at such time.*

"*By way of an example of the computation of minimum rental on grazing land by use of the factors prescribed* herein, and taking,

"*(a) a section of land, with*

"*(b) a carrying capacity of sixteen (16) animal-units, and*

"*(c) taking* the average price per pound of *beef cattle* on the farm in Montana *as seventeen and thirty hundredths cents ($.1730) for* the three *years next* preceding *the fixing of the rental, in compliance with the formula prescribed herein, such factors shall be used and applied as follows:*

Price per *pound* for cattle from 1938 to 1947, *inclusive*	A.U.M. Rental	Average price *per pound* for cattle for *1956 - 1957-1958*	Rental per A.U. for one month

.105 *cents* is to *.240 cents* as *.1730 cents* is to X or .3954 *cents*

The resulting factor of .3954 cents (rental per animal-unit for one month) in the foregoing example is hereby rounded to forty cents (40c) per animal-unit for one month to facilitate performance of the computation executed as follows:

.40 cents for one animal-unit-for-one-month times
12 months

80
40

$ 4.80 rental for one animal-unit for one year times
16 animal unit carrying capacity for the section of land

$28.80
4.80

---

results in $76.80 as the minimum rental for the next following year for the section of grazing land.

Additional rate for period from February 28, 1960 to February 28, 1961.

Section 2. For the period beginning after February 28, 1960 and ending February 28, 1961, 10 cents per animal unit shall be added to the animal unit figure resulting from the formula as described in this act to determine the rental fee for state lands during this period. From and after February 28, 1961 the formula contained in section 1 shall apply.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective February 28, 1960.

Section 4. This act shall be in full force and effect from and after the twenty-eighth day of February, 1960.

Approved March 18, 1959.

CHAPTER 285

An Act Prescribing Rules and Regulations for Numbering and Registering Motorboats and Vessels in the

State of Montana; Defining Terms and Designating the Fish and Game Commission of the State of Montana as the State Agency Responsible for the Administration of Said Act in the State of Montana; Providing Minimum Equipment Requirements for Motorboats and Vessels; Establishing Safety Regulations for the Use and Operation of Motorboats and Vessels in the State of Montana; Establishing Safety Regulations for the Use of Water-Skis, Surfboards and Similar Devices; Providing Penalties for Violation of Said Act; Repealing Sections 94-35-266, 94-35-267, and 94-35-268 of the Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict With This Act; Providing a Savings Clause and Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Policy of state to promote safe use of vessels.

Section 1. **Declaration of policy.** It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto.

Definitions.

Section 2. **Definitions.** As used in this act, unless the context clearly requires a different meaning:

"Vessel."

(1) "Vessel": for purposes of registration "vessel" shall mean those watercraft described under section 3 of public law 85-911, H.R. 11078 unless otherwise defined by the fish and game commission of the State of Montana as pertains to the safety regulations of this act "vessel" means every description of watercraft other than a seaplane on the water capable of being used as a means of transportation on water.

"Motor boat."

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto.

"Owner."

(3) "Owner" means a person, other than a lien holder, having the property in or title to a motorboat or

vessel. The term includes a person entitled to the use or possession of a motorboat or vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

"Waters of this state."

(4) ''Waters of this state'' means any waters within the territorial limits of this state.

"Person."

(5) ''Person'' means an individual, partnership, firm, corporation, asssociation or other entity.

"Operate."

(6) ''Operate'' means to navigate or otherwise use a motorboat or a vessel.

"Board."

(7) The word ''Board'' shall mean the fish and game commission of the State of Montana.

Operation of unnumbered boats prohibited.

Section 3. **Operation of unnumbered motorboats or vessels prohibited.** Every motorboat or vessel on the waters of this state propelled by machinery of more than ten horsepower shall be numbered. No person shall operate or give permission for the operation of any motorboat or vessel on such waters unless the motorboat or vessel is numbered in accordance with this act, or in accordance with applicable federal law, or in accordance with a federally approved numbering system of another state, unless (1) the certificate of number awarded to such motorboat or vessel is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on such motorboat or vessel.

Identification number.

Application and fee—certificate of number.

Section 4. **Identification number.** (a) The owner of each motorboat or vessel requiring numbering by this state shall file an application for number with the board or its designated representative, on forms approved by the board. The application shall be signed by the owner of the motorboat or vessel, and shall be accompanied by a fee of three ($3.00) dollars. Upon receipt of the application in approved form, the board shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat or vessel and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat or vessel, the identification number in such manner as may be prescribed by rules and regulations of the board, in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat or vessel for which issued, whenever such motorboat or vessel is in operation.

Marking of boat.

(b) The numbering requirements of this act shall apply to motorboats or vessels operated by manufacturers or dealers except that the description of the motorboat or vessel shall be omitted from the certificate of number and such number shall be permitted to be transferred from one vessel to another. In lieu of the descriptive material on said certificate of number the word "manufacturer" or "dealer" as appropriate, will appear on said certificate. The manufacturer or dealer may have the number awarded printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to a vessel to be demonstrated or tested so long as the number is exhibited so as to in all other respects meet the requirements of act relating to display of numbers.

Operation of boats by manufacturer or dealer.

(c) The owner of any motorboat or vessel already covered by a number in full force and effect, which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state, shall record the number prior to operating the motorboat or vessel on the waters of this state in excess of the ninety day reciprocity period provided for in section 6 (1) of this act. Such recordation shall be in the manner and pursuant to the procedure required for the award of number under subsection (a) of this section, except that no additional or substitute number shall be issued.

Recording of existing number.

(d) Should the ownership of a motorboat or vessel change, a new application form with fee shall be filed with the board and a new certificate of number shall be awarded in the same manner as provided for in an or-

Change of ownership.

iginal award of number, provided further that the number assigned may be determined by the board.

Federal number system.

(e) In the event that an agency of the United States government shall have in force an over-all system of identification numbering for motorboats or vessels within the United States, the numbering system employed pursuant to this act by the board shall be in conformity therewith.

Award of certificate.

(f) The board may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this act and with any rules and regulations of the board shall be valid as if awarded directly by the board.

Copies to registrar of motor vehicles.

(g) All records of the board made or kept pursuant to this act shall be public records; provided that the board shall submit to the registrar of motor vehicles of this state, correct copies of all certificates of registration issued pursuant to this act; and provided further that said registrar shall make said records immediately available to all law enforcement offices of this state.

Period of certificate.

(h) Every certificate of number awarded pursuant to this act shall continue in full force and effect for a period not to exceed three years, unless sooner terminated or discontinued in accordance with the provisions of this act. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same. The board shall notify each owner of a registered vessel of expiration of registration a reasonable time prior to expiration of registration.

Lapse of certificates.

(i) The board shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this act.

Notice of transfer of ownership, destruction, abandonment.

(j) In event of transfer of ownership, the purchaser shall furnish the board notice of the acquisition of all or any part of his interest other than the creation of a security interest in a motorboat or vessel numbered in this state pursuant to subsections (a) and (b) of this section, or of the destruction or abandonment of such motorboat or vessel, within reasonable time thereof. Such transfer, destruction or abandonment shall terminate the certificate of number for such motorboat or vessel except that in the case of a transfer of a part interest which does not affect the owner's right to operate such motorboat or vessel, such transfer shall not terminate the certificate of number.

New address of holder.

(k) Any holder of a certificate of number shall notify the board within reasonable time if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the board with his new address. The board may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or the alteration of an outstanding certificate to show the new address of the holder.

No other number marking.

(l) No number other than the number awarded to a motorboat or vessel or granted reciprocity pursuant to this act, shall be painted, attached or otherwise displayed on either side of the bow of such motorboat or vessel.

Section 5. **Equipment.** Every vessel shall have aboard:

Life preservers required.

(1) One life preserver, buoyant vest, ring buoy or buoyant cushion of the type approved by the commandant of the United States coast guard in good and serviceable condition for each person on board; provided, that any

person or persons, twelve (12) years of age or younger, occupying a vessel while such vessel is in motion, shall have a life preserver of a type approved by the commandant of the United States coast guard securely fastened to his or her person.

Lights.

(2) When in operation during hours of darkness, a light sufficient to make the motorboat's or vessel's presence and location known to any and all other vessels within a reasonable distance.

Ventilation.

(3) If carrying or using any inflammable or toxic fluid in any enclosure for any purpose, and if not an entirely open motorboat or vessel, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during the time such motorboat or vessel is occupied by any person.

Fire extinguishers.

(4) Every motorboat shall be provided with a reasonable number of fire extinguishers or other fire fighting device declared suitable by the board, capable of promptly and effectually extinguishing burning gasoline, which fire extinguishers shall be at all times kept in condition for immediate and effective use, and shall be so placed as to be readily accessible.

Flame arrester.

(5) Every motorboat or vessel shall have the carburetor or carburetors of every engine therein (except outboard motors) using gasoline as fuel, equipped with an efficient flame arrestor, backfire trap, or other similar device.

Authority of board to regulate.

(6) The board is hereby authorized to make rules and regulations modifying the equipment requirements contained in this section to the extent necessary to keep these requirements in conformity with the provisions of the federal navigation laws or with the navigation rules promulgated by the United States coast guard.

(7) No person shall operate or give permission for

the operation of a vessel which is not equipped as required by this section or modification thereof.

Operation of unequipped vessel prohibited.

Section 6. **Exemption from numbering provisions of this act.** A motorboat or vessel shall not be required to be numbered under this act, if it is:

Exemptions from numbering provisions.

(1) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state; provided, that such vessel shall not have been within this state for a period in excess of ninety (90) consecutive days.

(2) A vessel from a country other than the United States temporarily using the waters of this state.

(3) A vessel whose owner is the United States, a state or subdivision thereof.

(4) A ship's lifeboat.

Section 7. **Boat liveries.** (a) The owner of a boat livery shall cause to be kept a record of the name and address of the person or person hiring any vessel which is designated or permitted by him to be operated; the identification number thereof; and the departure date and time, and the expected time of return. The record shall be preserved for at least six (6) months.

Record of boat liveries.

(b) Neither the owner of a boat livery, nor his agent or employee shall permit any motorboat or any vessel designed or permitted by him to be operated as a motorboat or vessel to depart from his premises unless it shall have been provided, either by owner or renter, with the equipment required pursuant to section 5 of this act and any rules and regulations made pursuant thereto.

Operation of unequipped vessel prohibited.

Section 8. **Prohibited operation.** (a) No person shall operate or knowingly permit any person to operate, any

Prohibited operations—recknessness or negligence.

motorboat or vessel, or manipulate any water-skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

Intoxication.

(b) No person shall operate, or knowingly permit any person to operate, any motorboat or vessel, or manipulate any water-skis, surfboard, or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana.

Disability.

(c) It shall be unlawful for the owner of any motorboat or vessel, or any person having such in charge or in control, to authorize or knowingly permit the same to be operated by any person who by reason of physical or mental disability is incapable of operating such watercraft under the prevailing circumstances.

Speed.

(d) No person shall operate, or knowingly permit any person to operate, any motorboat or vessel at a rate of speed greater than will permit such person, in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead; provided, however, that nothing in this act is intended to prevent the operator of a vessel actually competing in a regatta which is sanctioned by an appropriate governmental unit from attempting to attain high speeds on a marked racing course.

Approach.

(e) No person shall make reckless approach to or passage by a dock, ramp, diving board or float.

Skier's life preserver.

(f) Skiers being pulled by motorboats must have on their person a life preserver, buoyant vest or ring buoy.

Rights of way rules.

Section 9. **Right of way.** (a) When two vessels are approaching each other "head on," or nearly so (so as to involve risk of collision), each vessel shall bear to the right and pass the other vessel on its left side.

(b) When vessels approach each other obliquely or at right angles, the vessel approaching on the right side has the right of way.

(c) One vessel may overtake another on either side but shall grant right of way to the overtaken vessel.

(d) When a sailboat and motorboat are operating as to involve a risk of collision with each other, the motorboat shall yield the right of way to the sailboat in all cases.

Restricted areas.

Section 10. **Restricted areas.** (a) No person shall so anchor a vessel or other obstacles for fishing or pleasure purposes, on any body of water over which the state has jurisdiction, in such a position as to obstruct a passageway ordinarily used by other vessels.

(b) No person shall operate a pleasure vessel within twenty (20) feet of the exterior boundary of a water area which is clearly marked by buoys or some other distinguishing device as a bathing or swimming area.

(c) Swimming areas shall be marked with yellow and red colored buoys by the owners of such areas.

(d) No person shall operate or knowingly permit any person to operate a vessel within twenty (20) feet of a person engaged in fishing without permission, or unless unavoidable.

Overloading prohibited.

Section 11. **Overloading and overpowering.** (a) No vessel shall be loaded with passengers or cargo beyond its safe carrying capacity, taking into consideration weather and other normal operating conditions.

Overpowering prohibited.

(b) No vessel shall be equipped with any motor or other propulsion machinery beyond its safe power capacity, taking into consideration the type and construction of such watercraft and other existing operating conditions.

Duties in event of accident.

Section 12. **Collisions, accidents and casualties.** (a) It shall be the duty of the operator of a vessel involved in a collision, accident or other casualty, so far as he can do so without serious danger to his own vessel, crew and passengers (if any), to render to other persons affected by the collision, accident or other casualty, such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or other casualty, and also to give his name, address and identification of his vessel in writing to any person injured and to the owner, or person in control of any property damaged in the collision, accident or other casualty.

Board to distribute accident report forms.

Duty to report accident.

(b) The board shall prepare and distribute to each sheriff's office of this state, a standardized accident report form; any person involved in a collision, accident or other casualty involving a death, personal injury or property damage in excess of one hundred dollars ($100.00) shall immediately report such collision, accident or other casualty to the sheriff's office of the county in which the collision, accident or casualty occured and fill out a standardized accident report form.

Duty of sheriff to investigate and report.

(c) It shall be the duty of any sheriff advised of a collision, accident or other casualty reported under this act; to (1) conduct an appropriate investigation of such collision, accident or other casualty and (2) to prepare and submit a report of the results of said investigation, together with the completed standardized accident report forms to the board.

Transmittal of information.

Section 13. **Transmittal of information.** In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the board pursuant to section 12 (b) and (c) shall be transmitted to said official or agency of the United States.

Night operation of skis or surfboards prohibited.

Section 14. **Water-skis and surfboards.** (a) No person shall operate a vessel on any waters of this state towing a person or persons on water-skis, a surfboard, or similar device, nor shall any person engage in water-skiing, surf-boarding, or similar activity at any time between the hours from one hour after sunset to one hour before sunrise; provided, however, that the provisions of this subsection do not apply to a performer engaged in a professional exhibition or a person or persons engaged in a regatta or race authorized under this act.

Towing.

(b) All right of way rules applying to the towing vessel shall apply.

Owner's civil liability.

Section 15. **Owner's civil liability.** The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel, whether such negligence consists of a violation of the provisions of the statutes of this state, or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner shall not be liable, however, unless such vessel is being used with his or her express or implied consent. It shall be presumed that such vessel is being operated with the knowledge and consent of the owner, if at the time of the injury or damage, it is under the control of his or her spouse, father, mother, brother, sister, son, daughter or other immediate member of the owner's family. Nothing contained herein shall be construed to relieve any other person from any liability which he would otherwise have, but nothing contained herein shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

Filing of regulations.

Section 16. **Filing of regulations.** A copy of the regulations adopted pursuant to this act, and of any amendments thereto, shall be filed in the office of the board and in the office of the secretary of state. Rules and regulations shall be published by the board in a convenient form and made easily available to all vessel operators.

Duty to enforce.

Section 17. It shall be the duty of the sheriffs of the various counties in state, and game wardens, or any peace officer in the State of Montana to enforce the sections of this law.

Penalties.

Section 18. **Penalty.** Violations of any section of this act shall be a misdemeanor and be punishable by fine of not less than ten dollars ($10.00) or more than five hundred dollars ($500.00) or by imprisonment up to thirty (30) days, or by both such fine and imprisonment.

Savings clause.

Section 19. **Savings clause.** If any competent court shall find any section or sections of this act to be unconstitutional or otherwise invalid, such finding shall not affect the validity of all remaining sections of this act which can be given effect.

Repealing clause.

Section 20. Sections 94-35-266, 94-35-267 and 94-35-268 of the Revised Codes of Montana, 1947, and any acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 21. This act shall be effective from and after the date of its passage and approval.

Approved March 18, 1959.

CHAPTER 286

An Act to Provide a Comprehensive Revision, Consolidation and Classification of the Laws of the State of Montana Relating to Insurance and to the Insurance Business; Regulating the Incorporation, Formation, and Affairs of Domestic Insurance Companies, Societies, and Associations, and the Admission of Foreign and Alien Insurance Companies, Societies, and Associations; Providing for Their Rights, Powers and Immunities, and to Prescribe the Conditions on Which Insurance Companies, Societies, and Associations Organized, Existing, or Authorized Under This Act May Exercise Their Powers; Providing for the Rights, Powers, and Immunities and to Prescribe the Conditions on Which Other Persons, Firms, Corporations, and Associations Engaged in or Affected by an Insurance Business May Exercise Their Powers; Providing for Service of Process on Unauthorized Insurers and the Conditions for Defense of Actions Brought Against Them in This State; Providing for Certain Powers, Rights, Obligations, Immunities, and Consequences as to Insurees and Other Persons Relative to Insurance Contracts and Annuity Contracts and Matters Arising From Such Contracts; Providing for the Imposition of Licenses, Fees, and Taxes, and for the Disposition Thereof; Providing for the Departmental Supervision and Regulation of the Insurance Business Within or Relative to This State; Providing Penalties for the Violation of This Act; Providing for an Effective Date of This Act; Repealing the Following Sections of the Revised Codes of Montana, 1947: Section 25-101; Sections 40-101 through 40-105; Sections 40-201 through 40-218; Sections 40-301 through 40-323; Sections 40-401 through 40-415; Sections 40-501 through 40-517; Section 40-601; through 40-609; Sections 40-701 Through 40-706; Section 40-801; Sections 40-901 Through 40-905; Sections 40-1001 Through 40-1005; Sections 40-1101 Through 40-1118; Section 40-1204; Section 40-1301; Section 40-1302 as Amended by Section 1, Chapter 224, Laws of Montana, 1957; Sections 40-1303 Through 40-1333; Sections 40-1401 Through 40-1441; Sections 40-1501 Through 40-1517; Sections 40-1601 Through 40-1625; Sections 40-1701, 40-1702; Sections

40-1704 Through 40-1722; Section 40-1726; Sections 40-1801 Through 40-1820; Sections 40-1901 Through 40-1946; Sections 40-2001 Through 40-2012; Sections 40-2101 Through 40-2138; Sections 40-2201 Through 40-2212; Sections 40-2301 Through 40-2310; Sections 40-2401 Through 40-2412; Section 40-2413 as Amended by Section 1, Chapter 108, Laws of Montana, 1955; Sections 40-2414 Through 40-2416; and Sections 40-2501 Through 40-2513; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

CHAPTER 1 — SCOPE OF CODE

Title.

Section 1. **Short title.** This act constitutes the Montana Insurance Code.

"Insurance" defined.

Section 2. "**Insurance**" **defined.** "Insurance" is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

"Insurer" defined.

Section 3. "**Insurer**" **defined.** "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance.

"Person" defined.

Section 4. "**Person**" **defined.** "Person" includes an individual, insurer, company, association, organization, Lloyds, society, reciprocal or interinsurance exchange, partnership, syndicate, business trust, corporation, and any other legal entity.

Definitions.

Section 5. "**Commissioner,**" "**Department**" **defined.** Unless context requires otherwise:

"Commissioner."

(1) "Commissioner" means commissioner of insurance of the State of Montana.

"Department."

(2) "Department" means the department of insurance of the State of Montana.

Section 6. "**Domestic,**" "**Foreign,**" "**Alien**" **Insurer and** "**State**" **Defined.** (1) A "domestic" insurer is one formed under the laws of this state.

(2) A "foreign" insurer is one formed under the laws of any jurisdiction other than this state. **"Foreign" insurer.**

(3) An "alien" insurer is one formed under the laws of any country other than the United States of America, its states, district, territories, and commonwealths. **"Alien" insurer.**

(4) Except where distinguished by context, "foreign" insurer includes also an "alien" insurer.

(5) When used as to jurisdiction "state" means a state, District of Columbia, territory, commonwealth, or possession of the United States of America. **"State."**

Section 7. **"Authorized," "Unauthorized" Insurer Defined.** (1) An "authorized" insurer is one duly authorized, by subsisting certificate of authority issued by the commissioner, to transact insurance in this state. **"Authorized" insurer.**

(2) An "unauthorized" insurer is one not so authorized. **"Unauthorized" insurer.**

Section 8. **"Transacting" Insurance.** "Transact" with respect to insurance includes any of the following: **"Transact."**

(1) Solicitation and inducement.

(2) Preliminary negotiations.

(3) Effectuation of a contract of insurance.

(4) Transaction of matters subsequent to effectuation of the contract of insurance and arising out of it.

Section 9. **Compliance required.** No person shall transact a business of insurance in Montana, or relative to a subject resident, located or to be performed in Montana, without complying with the applicable provisions of this code. **Compliance required.**

Section 10. **Application of code as to particular types of insurers.** No provision of this code shall apply with respect to: **Exempt insurers.**

(1) Domestic farm mutual insurers (as identified in chapter 23), except as stated in chapter 23 (farm mutual insurers);

(2) Domestic benevolent associations (as identified

in chapter 24), except as stated in chapter 24 (benevolent associations); and

(3) Fraternal benefit societies, except as stated in chapter 28 (fraternal benefit societies).

Exempt organizations and activities.

Section 11. **Exempted organizations, activities.** This code shall not apply to health service corporations, to the extent that the existence and operations of such corporations are authorized by section 15-1401 and related sections of the Revised Codes of Montana, 1947.

Expiration of existing certificates of authority and licenses.

Section 12. **Existing certificates of authority and licenses.** The expiration dates of certificates of authority and licenses in force immediately prior to the effective date of this code, and lawfully existing under any law repealed by this act, are extended as follows:

(1) Licenses or certificates of authority of insurers shall expire at midnight on May 31 next following such effective date.

(2) Licenses of agents and solicitors shall expire at midnight, May 31 next following such effective date.

Such certificates of authority and licenses, upon first renewal made under this code, shall be replaced by certificates of authority or licenses in form as provided by this code, and shall thereafter be subject to continuation, suspension, revocation or termination as though originally issued under this code.

Use of existing forms and filings.

Section 13. **Existing forms and filings.** Every form of insurance document and every rate or other filing lawfully in use immediately prior to the effective date of this code may continue to be so used or be effective until the commissioner otherwise prescribes pursuant to this code; except, that before expiration of one year from and after such effective date neither this code nor the commissioner shall prohibit the use of any such document, rate, or filing because of any power, prohibition, or requirement contained in this code which did not exist under laws in force immediately prior to such effective date.

Existing domestic insurers.

Section 14. **Existing domestic insurers.** Any domestic insurer having a subsisting certificate of authority to transact insurance in this state immediately prior to the effective date of this code, whose law of incorporation or law under which formed is repealed by this act, shall continue to have a corporate existence (if a corporation) or existence (if other than a corporation) as though incorporated or formed under like provisions of this code; but all amendments to articles of incorporation shall be made hereafter in compliance with the applicable provisions of this code, and all such insurers shall be otherwise governed by the provisions of this code.

Saving clause.

Section 15. **General saving clause.** This act shall not impair or affect any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act had not been passed.

Particular provisions prevail.

Section 16. **Particular provisions prevail.** Provisions of this code relative to a particular kind of insurance or a particular type of insurer or to a particular matter shall prevail over provisions relating to insurance in general or insurers in general or to such matter in general.

Penalty.

Section 17. **General penalty.** Each violation of any provision of this code, with respect to which violation a greater penalty is not provided by other applicable laws of this state, shall, in addition to any administrative penalty otherwise applicable thereto, upon conviction in a court of competent jurisdiction of this state be punishable by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment.

Severability.

Section 18. **Severability.** If any section, subsection, subdivision, sentence, word, or provision of this act shall be determined by a court of competent jurisdiction to be unconstitutional or inoperative, such determination shall not effect the remaining portions of this act.

Effective January 1, 1961.

Section 19. **Effective date.** This act shall become effective on January 1, 1961.

CHAPTER 2—THE COMMISSIONER OF INSURANCE

State Auditor ex officio commissioner.

Section 20. **Commissioner of insurance designated.** The state auditor shall ex officio be the commissioner of insurance of this state.

Insurance department created.

Section 21. **Insurance department.** (1) There is created an insurance department of this state, which shall be located in or convenient to the office occupied by the state auditor.

Control and supervision of commissioner.

(2) The insurance department shall be under the control and supervision of the commissioner.

Appropriated fund.

(3) Funds adequate for the maintenance and operation of the insurance department shall be expressly appropriated by the legislative assembly, and shall be used solely for the purposes for which so appropriated.

Commissioner's seal.

Section 22. **Commissioner's seal.** (1) The commissioner shall have a seal of office consisting of the same symbolic design within the inner circle as the great seal of the State of Montana, encircled by the words "commissioner of insurance, State of Montana."

(2) All certificates and licenses issued by the commissioner shall bear his seal, except that the commissioner may, in his discretion, omit the seal as to licenses.

Authority to appoint chief deputy.

Section 23. **Deputies and assistants.** (1) The commissioner shall appoint a chief deputy insurance commissioner, who shall be in charge of the insurance department, under the direction and control of the commissioner.

Additional deputies.

(2) The commissioner may appoint additional deputy insurance commissioners for such purposes as he may designate.

Actuary.

(3) The commissioner may employ a competent insurance actuary, to perform actuarial duties, if any, of the department, to take charge of or assist in the examination of insurers, and to perform other duties assigned to him.

Examiners.

(4) The commissioner may appoint or employ such examiners to conduct or assist in examinations of insurers and others provided for under the code, as may be

competent, because of experience or special education or training, to fulfill the responsibilities of an insurance examiner.

Field investigator.

(5) The commissioner shall appoint and employ a field investigator whose primary duty it shall be, as directed by the commissioner, to make investigations in this state of violations or claimed violations of this code.

Chief Clerk and assistants.

(6) The commissioner may appoint a chief clerk for the insurance department, and employ such other assistants and clerks as may be necessary to assist him properly to discharge the duties imposed upon him under this code.

Termination of employment.

(7) The commissioner may at any time terminate the appointment, designation, or employment of any such deputy, actuary, chief clerk, or other employee.

Contract for services.

(8) The commissioner may from time to time contract for and procure, on a fee or part time basis, or both, such acturial, technical or other professional services as he may require for the discharge of his duties.

Compensation.

(9) The compensation of all such personnel so appointed, or employed, or contracted for by him shall be as fixed by the commissioner, but in the aggregate shall not exceed current funds appropriated by the legislative assembly to the insurance department or otherwise currently available for the purpose.

Prohibited interests.

Section 24. **Prohibited interests, rewards.** (1) The commissioner or any deputy, examiner, assistant or employee of the commissioner shall not be financially interested, directly or indirectly, in any insurer, insurance agency, or insurance transaction except as a policyholder or claimant under a policy; except, that as to such matters wherein a conflict of interests does not exist on the part of any such individual, the commissioner may employ or retain from time to time insurance actuaries, attorneys, or other technicians who are independently practicing their professions even though similarly employed or retained by insurers or others.

Prohibited awards.

(2) The commissioner or any deputy, examiner, or employee of the commissioner, shall not be given nor receive any fee, compensation, loan, gift, or other thing

of value in addition to the compensation and expense allowance provided by law, for any service rendered or to be rendered as such commissioner, deputy, examiner, or employee or in connection therewith.

Delegation of authority.

Section 25. **Delegation of authority.** (1) The commissioner may delegate to any deputy, assistant, examiner or employee of his department, the exercise or discharge in the commissioner's name of any power, duty, or function, whether ministerial or discretionary, vested by this code in the commissioner.

Responsibility.

(2) The commissioner shall be responsible for the official acts of his deputy, assistant, examiner or employee acting in the commissioner's name and by his authority.

Records.

Section 26. **Records.** The commissioner shall enter in permanent form records of his official transactions, examinations, investigations, and proceedings, and keep such records in his office. Such records and insurance filings in his office shall be open to public inspection, except as otherwise provided in this code with respect to particular records or filings.

Certificates as evidence.

Section 27. **Certificates as evidence.** (1) Copies of records or documents in his office certified to by the commissioner shall be received in evidence in all courts as if they were the originals.

(2) The commissioner shall furnish, when required, his certificate as to the authority of any person to transact insurance, and such certificate shall be evidence of the facts set forth therein.

Powers and duties of commissioner.

Section 28. **General powers, duties.** (1) The commissioner shall enforce the provisions of this code, and shall execute the duties imposed upon him by this code.

(2) The commissioner shall have the powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code.

(3) The commissioner may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any

such provision. The cost of such additional examinations and investigations shall be borne by the state.

(4) The commissioner shall have such additional powers and duties as may be provided by other laws of this state.

Power to regulate.

Section 29. **Rules and regulations.** (1) The commissioner may make reasonable rules and regulations necessary for or as an aid to effectuation of any provision of this code. No such rule or regulation shall extend, modify, or conflict with any law of this state or the reasonable implications thereof. Any such rule or regulation affecting persons or matters other than the personnel or the internal affairs of the commissioner's office shall be made or amended only after a hearing thereon of which notice was given as required by section 41. If reasonably possible the commissioner shall set forth the proposed rule or regulation or amendment in or with the notice of hearing. No such rule or regulation or amendment as to which a hearing is required shall be effective until it has been on file as a public record in the commissioner's office for at least ten (10) days.

Hearing.

Administrative penalties.

(2) In addition to any other penalty provided, wilful violation of any such rule or regulation shall subject the violator to such administrative penalties as may be applicable under this code as for violation of the provision as to which such rule or regulation relates.

Requirements of orders and notices.

Section 30. **Orders, notices.** (1) Orders and notices of the commissioner shall not be effective unless in writing signed by him or by his authority.

(2) Every such order shall state its effective date and shall concisely state:

(a) Its intent or purpose.

(b) The grounds on which based.

(c) The provisions of this code pursuant to which action is so taken or proposed to be taken; but failure to so designate a particular provision shall not deprive the commissioner of the right to rely thereon.

(3) Except as may be provided in this code respecting particular procedures, an order or notice may be given

by delivery to the person to be ordered or notified or by mailing it, postage prepaid, addressed to him at his principal place of business as last of record in the commissioner's office. Such order or notice shall be deemed to have been given when so mailed.

Annual report.

Section 31. **Commissioner's annual report.** As early in the calendar year as reasonably possible the commissioner annually shall prepare and deliver a report to the legislative assembly and the governor, showing, with respect to the preceding calendar year:

(1) List of the authorized insurers transacting insurance in Montana, with such summary of their financial statement as he deems appropriate;

(2) Names of all insurers whose business was closed during the year, the cause thereof, and amount of assets and liabilities as ascertainable;

(3) Names of insurers against which delinquency or similar proceedings were instituted, and a concise statement of the facts with respect to each such proceeding and the status thereof;

(4) A statement in regard to examination of rating organizations, advisory organizations, joint underwriters, and joint reinsurers as required by section 251.

(5) The receipts and expenses of the insurance department for the year.

(6) Recommendations of the commissioner as to amendments or supplementation of laws affecting insurance, as to matters affecting the office of commissioner, and

(7) Such other pertinent information and matters as the commissioner deems proper.

Procedure for examination of insurers.

Section 32. **Examination of insurers.** (1) The commissioner shall examine the affairs, transactions, accounts, records, and assets of each authorized insurer as often as he deems advisable. He shall so examine each domestic insurer not less frequently than every three (3) years. Examination of an alien insurer may be limited to its insurance transactions and affairs in the United States. Examination of a reciprocal insurer may also include examination of its attorney-in-fact insofar as the transactions of the attorney in fact relate to the insurer.

(2) The commissioner shall in like manner examine each insurer applying for an initial certificate of authority to do business in this state.

(3) In lieu of making his own examination, the commissioner may, in his discretion, accept a full report of the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory official of another state, territory, commonwealth, or district of the United States.

Examination of agents, managers, promoters.

Section 33. **Examination of agents, managers, promoters.** For the purpose of ascertaining compliance with this code, the commissioner may as often as he deems advisable examine the accounts, records, documents, and transactions, pertaining to or affecting its insurance affairs or proposed insurance affairs, of:

(1) Any insurance agent, solicitor, surplus line agent, general agent, or adjuster.

(2) Any person having a contract under which he enjoys in fact the exclusive or dominant right to manage or control an insurer.

(3) Any person holding the shares of voting stock or policyholder proxies of a domestic insurer, for the purpose of controlling the management thereof, as voting trustee or otherwise.

(4) Any person engaged in or proposing to be engaged in or assisting in the promotion or formation of a domestic insurer or insurance holding corporation, or corporation to finance a domestic insurer or the production of its business.

Conduct of examinations.

Section 34. **Conduct of examination; records; correction of accounts; appraisals.** (1) The commissioner shall conduct any such examination at the home office (if a domestic or foreign insurer) or United States branch office (if an alien insurer) of the insurer, or in any of its branch or agency offices; or with respect to persons other than insurers, at the office or other place of business of such person or at any place or places where his records are kept.

Duty to make records available.

(2) Every person being examined, its officers, employees, agents, and representatives shall produce and make freely available to the commissioner or his examiners the accounts, records, documents, files, information, assets, and matters in his possession or control relating to the subject of the examination; and shall otherwise facilitate and aid such examination as far as reasonably possible.

Authority to employ experts.

(3) If the commissioner finds accounts to be inadequate, or inadequately kept or posted, he may employ experts to rewrite, post, or balance them at the expense of the person being examined if such person has failed to complete or correct such accounting after the commissioner has given him notice and a reasonable opportunity to do so.

Authority to employ appraisers.

(4) If the commissioner deems it necessary to value any real estate involved in any such examination, he may make written request of the person being examined to appoint one or more competent appraisers approved by the commissioner, for the purpose of appraising such property. If no such appointment is made within ten (10) days after such request was delivered to such person, the commissioner may appoint the appraiser or appraisers. Any such appraisal shall be made promptly, and a copy of the report thereof shall be furnished to the commissioner. The reasonable expense of the appraisal shall be borne by the person being examined.

Examination reports.

Section 35. **Examination reports.** (1) The commissioner or his examiner shall make a full and true report of each examination, verified by his oath.

Report shall comprise facts.

(2) The report shall comprise only facts appearing from the books, papers, records, or documents of the person being examined, or ascertained from the testimony, under oath, of individuals concerning its affairs, and conclusions and recommendations as warranted by such facts.

Copy to person examined—hearing.

(3) The commissioner shall furnish a copy of the proposed report to the person examined not less than twenty (20) days prior to filing the same in his office. If such person so requests in writing within such twenty-day period, the commissioner shall grant a hearing with

respect to the report, and shall not so file the report until after the hearing and after such modifications, if any, have been made therein as the commissioner deems proper.

Presumptive evidence.

(4) The report when so verified and filed shall be presumptive evidence, in any action or proceeding brought by the commissioner against the person examined, or against its officers or agents, of the facts stated therein. The commissioner and his examiners may at any time testify and offer other proper evidence as to information secured during the course of an examination, whether or not a written report of the examination has at that time been either made, served, or filed in the commissioner's office.

Withholding.

(5) The commissioner may withhold from public inspection any examination or investigation report for so long as he deems such withholding to be necessary for the protection of the person examined against unwarranted injury or to be in the public interest.

Publication.

(6) If he deems such to be in the public interest the commissioner may publish any such examination report or a summary thereof in one or more newspapers in the state.

Examination expenses.

Section 36. **Examination expense.** (1) Each person so examined, other than as to examinations pursuant to section 33, shall pay the actual travel expenses, a reasonable living expense allowance, and a per diem as compensation of examiners, as necessarily incurred on account of the examination, all at reasonable rates customary therefor and as established or adopted by the commissioner, upon presentation of a detailed account of such charges and expenses by the commissioner or pursuant to his written authorization. Such an account may be so presented periodically during the course of the examination or at the termination of the examination, as the commissioner deems proper. No person shall pay and no examiner shall accept any additional emolument on account of any such examination.

Creation of insurance department examinations revolving fund—purpose.

(2) There is created in the state treasury a special fund to be known as the "insurance department examinations revolving fund." The commissioner shall pay to

the state treasurer to the credit of this special fund all monies received pursuant to subsection (1) above. This fund shall be used only for or toward payment of travel, living allowance and other expenses incurred by the commissioner and his examiners in the making of examinations (other than examinations of applicants for license as insurance agents or other representatives) under this code, and the compensation of such examiners, upon such bases as the commissioner may fix for the purposes of this subsection. In lieu of deposit thereof in such fund, the commissioner may give written authorization for payment, by the person examined, of such travel expenses and living allowance direct to the examiner. Any other law of this state to the contrary notwithstanding, the travel expense and living allowance of examiners shall be as fixed by the commissioner pursuant to this subsection. Any sums remaining in this special fund at the end of any fiscal period shall be carried forward and remain in the fund, and are hereby continuously appropriated for use as provided in this subsection.

Lien on failure to pay.

(3) If any such person fails to pay the charges and expenses, as referred to in subsection (1) above, they shall be paid out of the funds of the commissioner in the same manner as other disbursements of such funds. The amount so paid shall be a first lien upon all of the assets and property in this state of such person, and may be recovered by suit by the attorney general on behalf of the State of Montana, and restored to the appropriate fund.

Powers of subpoena.

Section 37. **Witnesses and evidence.** (1) With respect to the subject of any examination, investigation, or hearing being conducted by him the commissioner or his examiner, if general written authority therefor has been given the examiner by the commissioner, may subpoena witnesses and administer oaths or affirmations and examine any individual under oath, and may require and compel the production of records, books, papers, contracts, and other documents by attachments, if necessary. If in connection with any examination of an insurer the commissioner desires to examine any officer, director or manager thereof who is then outside this state, the commissioner is authorized to conduct and to enforce by all appropriate and available means any such examination under oath in any other state or territory of the United States in which such officer, director or manager may then presently be, to the full extent permitted by the laws of such other state or territory, this special authorization considered.

Allowance for witnesses.

(2) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a district court. Witness fees, mileage, and the actual expenses necessarily incurred in securing attendance of witnesses and their testimony shall be itemized, and shall be paid by the person being examined if such person is found to have been in violation of the law as to the matter with respect to which such witness was subpoenaed, or by the person, if other than the commissioner, at whose request the hearing is held.

Service.

(3) Subpoenas of witnesses shall be served in the same manner as if issued from a district court. If any individual fails to obey a subpoena lawfully served, the commissioner shall forthwith report such disobedience, together with a copy of the subpoena and proof of service thereof, to the district court for the county in which the individual was required to appear, and such court shall forthwith cause such individual to be produced and shall impose penalties as though he had disobeyed a subpoena issued out of such court.

Penalty for false testimony.

(4) Any person wilfully testifying falsely under oath as to any matter material to any such examination, investigation, or hearing, shall upon conviction thereof be guilty of perjury and punished accordingly.

Penalty for failure to testify.

(5) Any person wilfully failing to attend, answer or produce records, documents or other evidence requested by the commissioner, or who wilfully fails to give the commissioner full and truthful information and answer in writing to any material written inquiry of the commissioner, relative to the subject of any such examination, investigation, or hearing, or wilfully fails to appear and testify under oath before the commissioner, shall upon conviction thereof, in addition to or in lieu of any other penalty or penalties applicable, be deemed guilty of a misdemeanor.

Testimony compelled.

Section 38. **Testimony compelled; immunity from prosecution.** No person shall be excused from attending and testifying or producing any evidence upon any examination, investigation, or hearing conducted by or under authority of the commissioner, on the ground that his testimony or the evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. No person shall be prosecuted or punished in any criminal action or proceeding for or on account of any act, transaction, matter or thing concerning which he is so compelled to produce evidence or to testify under oath, except for perjury committed in such testimony.

Immunity from prosecution except for perjury.

Hearings.

Section 39. **Hearings.** (1) The commissioner may hold hearings for any purpose within the scope of this code deemed by him to be necessary.

(2) The commissioner shall hold a hearing if required by any provision, or upon written demand therefor by a person aggrieved by any act, threatened act or failure of the commissioner to act, or by any report, rule, regulation or order of the commissioner (other than an order for the holding of a hearing, or an order on hearing or pursuant thereto). Any such demand shall specify the grounds to be relied upon as a basis for the relief to be demanded at the hearing, and unless postponed by mutual consent, such hearing shall be held within thirty (30) days after receipt by the commissioner of demand therefor.

(3) If within such thirty (30) day period the commissioner does not either (a) grant the hearing, or (b) issue his order refusing the hearing, as to such previous report, rule, regulation, or order as to which such person so claims to be aggrieved, then the hearing shall thereby be deemed to have been refused.

Stay of action.

Section 40. **Stay of action.** (1) Such a demand for a hearing received by the commissioner prior to the effective date of any order issued by him or within ten (10) days after such order is delivered, shall stay the effectiveness of such order pending the hearing and an order made thereon, except as to action taken or proposed (a) under an order on hearing, or (b) under an order pursuant and supplemental to an order on hearing, or (c) under an order based upon impairment of assets or unsound financial condition of an insurer.

(2) If an automatic stay is not provided for and the commissioner after written request therefor fails to grant a stay, the person aggrieved may apply to the district court for Lewis and Clark county for a stay of the commissioner's proposed action.

Notice of hearing.

Section 41. **Notice of hearing.** Not less than ten (10) days in advance the commissioner shall give notice of the time and place of the hearing, stating the matters to be considered thereat. If the persons to be given notice are not specified in the provision pursuant to which the hearing is held, the commissioner shall give such notice to all persons whose pecuniary interests are to be directly and immediately affected by such hearing.

Hearing procedure.

Section 42. **Hearing procedure.** (1) Hearings may be closed to the public at the commissioner's discretion, except that a hearing held with respect to a filing made under chapter 11 (rates and rating organizations) prior to the effective date of such filing shall be closed to the public unless otherwise requested by the party that made such filing; in all other cases a hearing shall be open to the public if so requested in writing by any party to the hearing.

Rights of parties.

(2) The commissioner shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his interest, and to have subpoenas issued by the commissioner to compel attendance of witnesses and production of evidence in his behalf.

Intervention.

(3) The commissioner shall permit to become a party to the hearing by intervention, if timely, any person who was not an original party thereto and whose pecuniary interests are to be directly and immediately affected by the commissioner's order made upon the hearing.

Formal rules not required.

(4) Formal rules of pleading or evidence need not be observed at any hearing.

Stenographic records and transcripts.

(5) Upon written request seasonably made by a party to the hearing and at such person's expense, the commissioner shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed a copy of such stenographic record shall be furnished to the commissioner, without cost to the commissioner or the state, and shall be a part of the commissioner's record of the hearing. If so transcribed a copy of such stenographic record shall be furnished to any other party to such hearing at the request and expense of such other party. If no stenographic record is made or transcribed, the commissioner shall prepare an adequate record of the evidence and of the proceedings.

Rehearing.

(6) Upon written request of a party to a hearing filed with the commissioner within thirty (30) days after any order made pursuant to a hearing has been mailed or delivered to the persons entitled to receive the same, the commissioner may, in his discretion, grant a rehearing or reargument of the matters involved in such hearing, and notice of such rehearing or reargument shall be given as provided in section 41.

Order on hearing.

Section 43. **Order on hearing.** (1) In conducting any such hearing the commissioner shall sit in a quasi judicial capacity. Within thirty (30) days after termination of the hearing or of any rehearing thereof or reargument thereon, he shall make his order on hearing, covering matters involved in such hearing and in any rehearing or reargument thereof, and shall give a copy of such order to the same persons given notice of the hearing.

(2) The order shall contain a concise statement of the facts as found by the commissioner, and of his conclusions therefrom, and the matters required by section 30.

(3) The order may affirm, modify, or nullify action theretofore taken or may constitute the taking of new action within the scope of the notice of hearing.

Appeals to district court.

Section 44. **Appeals from the commissioner.** (1) An appeal from the commissioner shall be taken only from an order on hearing or with respect to a matter as to which the commissioner has refused a hearing. Any person who was a party to such hearing, or whose pecuniary interests are directly and immediately affected by any such order or refusal and who is aggrieved thereby may, within thirty (30) days after (a) the order has been mailed or delivered to the persons entitled to receive the same, or (b) the commissioner's order denying rehearing or reargument has been so mailed or delivered, or (c) the commissioner's refusal to grant a hearing, appeal from such order on hearing or such refusal of a hearing. The appeal shall be taken to the district court of Lewis and Clark county, by filing written notice of appeal in such court and by filing a copy of such notice with the commissioner; except, that in appeals from the suspension or revocation of the certificate of authority of a domestic insurer or of the license of an agent, solicitor, or surplus line agent, the person taking the appeal may, at his option, in lieu of the district court of Lewis and Clark county, take the appeal to the district court of the county of Montana in which the insurer has its principal place of business or the licensee resides.

Procedure for appeal.

(2) Upon filing of the notice of appeal therein the court shall have full jurisdiction, and shall determine whether such filing shall operate as a stay of the order or action appealed from, except that in the following instances the filing of the notice of appeal shall automatically stay the order appealed from pending the judgment of the district court on the appeal:

Jurisdiction.

Stay of order.

(a) Appeal from suspension or revocation of the license of an agent, solicitor or surplus line agent.

(b) Appeal from suspension or revocation of the certificate of authority of an insurer.

(3) Within twenty (20) days after filing of the copy of the notice of appeal in his office, the commissioner shall make and return to the court in which the appeal is pending a copy of his order appealed from and a full and complete transcript, duly certified by the commissioner, of his record of the hearing upon which the order was issued, together with all exhibits and documentary evidence introduced thereat. If the appeal is from an action of the commissioner with respect to which a hearing was refused, the commissioner shall within such twenty (20) day period make and return to the court a full and complete transcript, duly certified by him, of all

Duty to furnish transcript.

documents on file in his office directly relating to the matter as to which such appeal is taken.

Trial de novo.

(4) Upon receipt of such transcripts and evidence the court shall hear the matter de novo as soon as reasonably possible thereafter. Upon the hearing of the appeal the court shall consider the evidence contained in the transcript, exhibits, and documents therein filed by the commissioner, together with such additional proper evidence as may be offered by any party to the appeal.

(5) After hearing the appeal the court may affirm, modify or reverse the order or action of the commissioner in whole or in part, or remand the action to the commissioner for further proceedings in accordance with the court's direction.

Costs

(6) Costs shall be awarded as in civil actions.

Appeal to supreme court.

(7) Appeal may be taken to the supreme court from the judgment of the district court as in other civil cases to which the state is a party. A stay of the effectiveness of any such judgment may be made only by order of the supreme court upon the giving of such security as that court deems proper.

Undertaking.

(8) This section shall not apply to appeals as to matters covered by chapter 11 of this code (rates and rating organizations), and for which appeal is provided for under section 257.

Schedule of fees and licenses.

Section 45. **Fees and licenses.** (1) The commissioner shall collect in advance, and the persons so served shall so pay to the commissioner, the following fees and licenses:

(a) Certificates of authority.

(i) Application for original certificate of authority: For filing applications for certificate of authority, articles of incorporation (except as provided in subsection (b), below) and other charter documents, bylaws, financial statement, examination report, power of attorney to the commissioner, and all other documents and filings required in connection with such application, and for issuance of an original certificate of authority, if issued:

Domestic insurers	$ 30.00
Foreign insurers	300.00
(ii) Annual continuation of certificate of authority	25.00
(iii) Reinstatement of certificate of authority	25.00
(b) Articles of incorporation:	
(i) Filing original articles of incorporation of domestic insurer, exclusive of fees required to be paid by the corporation to the secretary of state	20.00
(ii) Filing amendment of articles of incorporation, domestic and foreign insurers, exclusive of fees required to be paid to the secretary of state by a domestic corporation	10.00
(c) Filing bylaws or amendment thereto, where required	5.00
(d) Filing annual statement of insurer, other than as part of application for original certificate of authority	25.00
(e) Agent's license, property, casualty, surety, title insurance agents, and including disability insurance without additional license or fee when written by property, casualty, or surety insurer otherwise represented by the agent:	
(i) Application for original license, and including issuance of license, if issued	10.00
(ii) Appointment of agent, each insurer	5.00
(iii) Annual renewal or appointment of agent, each insurer	5.00
(iv) Temporary license	10.00
(f) Solicitor's license:	
(i) Application for original license, including issuance of license, if issued	5.00
(ii) Annual continuation of license	5.00
(g) Agent's license, life, disability insurance:	
(i) Application for original license, each insurer	5.00
(ii) Annual continuation or renewal of license, each insurer	5.00
(iii) Temporary license, each insurer	5.00
(h) Examination for license as agent or solicitor, each examination	10.00
(i) Surplus line agent's license:	

(i) Application for original license and for issuance of license, if issued	25.00
(ii) Annual renewal or continuation of license	25.00
(j) Adjuster's license:	
(i) Application for original license and for issuance of license, if issued	10.00
(ii) Annual continuation or renewal of license	10.00
(k) Insurance vending machine license, each machine, each year	10.00
(l) Commissioner's certificate under seal (except when on certificates of authority or licenses)	1.00
(m) Copies of documents on file in the commissioner's office, per page	.50

(2) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund of this state all fees and licenses received by him under this section.

(3) The fees provided for in this section shall be in lieu of all fees heretofore payable with respect to insurance or insurers under section 25-101, Revised Codes of Montana, 1947.

CHAPTER 3 —

AUTHORIZATION OF INSURERS AND GENERAL REQUIREMENTS

Certificate of authority required.

Section 46. **Certificate of authority required; in general.** (1) No person shall act as an insurer and no insurer shall transact insurance in this state except as authorized by a subsisting certificate of authority issued to it by the commissioner, except as to such transactions as are expressly otherwise provided for in this code.

Requirement for doing business in foreign states.

(2) No insurer shall have or maintain in Montana any office, representative, or other facilities for the solicitation or servicing of any kind of insurance in any other state unless it is then authorized to transact the same kind of insurance in this state.

Exceptions to requirement of certificate.

Section 47. **Exceptions, certificate of authority requirement.** A certificate of authority shall not be required of an insurer, not otherwise authorized in this state, as to the following transactions:

(1) Transactions relative to its policies lawfully

written in Montana, or liquidation of assets and liabilities of the insurer (other than collection of new premiums), all as resulting from its former authorized operations in Montana.

(2) Transactions relative thereto subsequent to issuance of a policy covering only subjects of insurance not resident, located, or expressly to be performed in Montana at time of issuance, and which coverage was lawfully solicited, written, and delivered outside Montana.

(3) Transactions pursuant to surplus lines coverages lawfully written pursuant to chapter 9 of this code.

(4) Reinsurance, except as to domestic reinsurers.

Admission for investment only.

Section 48. **Admission for investment only.** A foreign insurer may transact business in this state without certificate of authority, for the purpose and to the extent only of investing its funds in Montana real estate or in securities secured thereby by complying with the applicable laws of this state other than this code. Such an insurer shall not be subject to any other provision of this code.

Eligibility of insurers.

Section 49. **General eligibility of insurers.** To qualify for and hold authority to transact insurance in this state an insurer must be otherwise in compliance with this code and with its charter powers, and must be an incorporated stock insurer, or an incorporated mutual insurer, or a reciprocal insurer, all of the same general type as may hereafter be formed as a domestic insurer under this code; except that:

Reserves of foreign insurers.

(1) No foreign insurer shall be authorized to transact insurance in Montana which does not maintain reserves as required by chapter 5 of this code applicable to the kind or kinds of insurance transacted by such insurer, wherever transacted in the United States; or which transacts business anywhere in the United States on the assessment plan, or stipulated premium plan, or any similar plan.

Foreign insurer owned by government.

(2) No foreign insurer which is directly or indirectly owned or controlled in whole or in substantial part by any government or governmental agency shall be authorized to transact insurance in Montana unless it was

so owned and first so authorized prior to January 1, 1957. Membership or subscribership in a mutual or reciprocal insurer by virtue of being a policyholder thereof, or ownership of stock or other security which does not have voting rights with respect to the management of the insurer, or supervision of an insurer by public authority, shall not be deemed to be an ownership or control of the insurer for the purposes of this provision.

Name of insurer.

Section 50. **Name of insurer.** (1) No insurer shall be authorized to transact insurance in this state which has or uses a name so similar to that of another insurer already so authorized as likely to mislead the public.

Name of life insurer.

(2) No life insurer shall be authorized which has or uses a name deceptively similar to that of another insurer authorized to transact insurance in this state within the preceding ten (10) years of life insurance policies originally issued by such other insurer are still outstanding in this state.

Misleading name.

(3) No insurer shall be so authorized which has or uses a name which tends to deceive or mislead as to the type of organization of the insurer.

Modification of name.

(4) In case of conflict of names between two insurers, or a conflict otherwise prohibited under the foregoing subsections of this section, the commissioner may permit or require the more recently authorized insurer to use in Montana such supplementation or modification of its name or such business name as may reasonably be necessary to avoid such conflict.

Combinations of insuring powers.

Section 51. **Combinations of insuring powers, one insurer.** An insurer which otherwise qualifies therefor may be authorized to transact any one kind or combination of kinds of insurance as defined in chapter 4 of this code, except:

Limitation on life insurers—exception.

(1) A life insurer may also grant annuities, but shall not be authorized to transact any other kind of insurance other than disability; except, that if the insurer is otherwise qualified therefor the commissioner shall continue to so authorize any life insurer which, immediately prior to the effective date of this code, was lawfully authorized to transact in this state a kind or kinds of insurance in addition to life and disability.

(2) A reciprocal insurer shall not transact life insurance.

Limitation on reciprocal insurer.

(3) A title insurer shall be a stock insurer.

Limitation on title insurer.

Section 52. **Capital funds required.** (1) To qualify for authority to transact any one kind (as defined in chapter 4) of insurance, or combinations of kinds of insurance as shown below, an insurer shall possess and thereafter maintain unimpaired paid-in capital stock (if a stock insurer) or surplus (if a foreign mutual or foreign reciprocal insurer) in amount not less than as applicable under the schedule below and shall possess when first so authorized such additional funds as surplus as required under section 53 of this code:

Capital funds required.

Kind or kinds of insurance	Minimum capital or surplus required
Life	$100,000.00
Disability	100,000.00
Life and disability	150,000.00
Property	200,000.00
Marine	200,000.00
Casualty	
All lines except workmen's compensation	200,000.00
All lines, including workmen's compensation	300,000.00
Surety	250,000.00
Title	100,000.00
Multiple lines (two or more: property, marine, casualty or surety)	400,000.00

Except, that an insurer holding a valid certificate of authority to transact insurance in this state immediately prior to the effective date of this code may, if otherwise qualified therefor, continue to be so authorized for a period of five (5) years from such effective date by maintaining the same amount of paid-in capital stock (if a stock insurer) or the same amount of surplus (if a mutual or reciprocal insurer) as required by the laws of this state for such authority immediately prior to such effective date, and shall after expiration of such five-year period have or receive authority to transact insurance in this state only if otherwise qualified therefor and

Exception.

while having and maintaining paid-in capital stock (if a stock insurer) or surplus (if a mutual or reciprocal insurer) in applicable amount as otherwise required under this section; except, further, that any such insurer shall not, within such five-year period, be granted authority to transact any other or additional kind of insurance unless it then fully complies with the requirements as to capital and surplus, as applied to all kinds of insurance it then proposes to transact, as provided by this code as to insurers applying for original certificates of authority under this code.

Surplus required.

(2) As to surplus required for qualification to transact one or more kinds of insurance and thereafter to be maintained, domestic mutual insurers shall be governed by chapter 22, and domestic reciprocal insurers shall be governed by chapter 25.

Base.

(3) Capital and surplus requirements shall be based upon all the kinds of insurance actually transacted or to be transacted by the insurer in any and all areas in which it operates, whether or not only a portion of such kinds are to be transacted in this state.

Life insurer may grant annuities.

(4) A life insurer may also grant annuities without additional capital or additional surplus.

Special surplus required.

Section 53. **Special surplus required.** In addition to the minimum paid-in capital stock (stock insurers) or minimum surplus (mutual and reciprocal insurers) required by section 52 of this code, special surplus shall be possessed by insurers as follows:

Stock, foreign, reciprocal and alien insurers.

(1) All stock insurers and foreign mutual and foreign reciprocal insurers which have actively transacted insurance in their state of domicile as an authorized insurer for less than five (5) years, or, if an alien insurer, have transacted insurance as an authorized insurer in at least one state of the United States for less than five (5) years, when first authorized to transact insurance in this state shall have a surplus or additional surplus equal to not less than one hundred percent (100%) of the paid-in capital stock (if a stock insurer) or surplus (if a foreign mutual or foreign reciprocal) otherwise required under section 52 for the kinds of insurance to be transacted.

(2) Insurers that have actively transacted insurance

as authorized insurers in one or more states of the United States for more than five (5) years shall possess when first authorized in this state, surplus or additional surplus equal to not less than fifty percent (50%) of the paid-in capital stock (if a stock insurer) or surplus (if a foreign mutual or foreign reciprocal insurer) otherwise required under section 52.

Insurers authorized in other states.

(3) Insurers authorized to transact multiple lines of insurance in this state shall at all times have and maintain surplus of not less than one hundred thousand dollars ($100,000), in addition to the capital (if a stock insurer) or surplus (if a foreign mutual or foreign reciprocal insurer) required by section 52. The amount of such surplus shall be included within the surplus required of newly authorized insurers pursuant to subdivisions (1) and (2) of this section.

Multiple line insurers.

Section 54. **Deposit requirement.** (1) An insurer shall not be authorized to transact insurance in this state unless it makes and thereafter maintains in trust in this state through the commissioner for the protection of all its policyholders or of all its policyholders and creditors, a deposit of cash or securities eligible for deposit under section 134 of this code in an amount not less than the minimum paid-in capital stock (if a stock insurer) or minimum surplus (if a mutual or reciprocal insurer), other than special surplus, required to be maintained for authority to transact the kinds of insurance to be transacted, except:

Deposit for security required.

(a) As to title insurers, the deposit shall be in the amount of fifty thousand dollars ($50,000).

Title insurers.

(b) As to foreign insurers, in lieu of such deposit or part thereof in this state, the commissioner shall accept the certificate in proper form of the public official having supervision over insurers in any other state to the effect that a like deposit or part thereof by such insurer is being maintained in public custody therein in trust for the purpose, (among other reasonable purposes of protection of policyholders and/or creditors) of the protection of all its policyholders, or policyholders and creditors, in Montana.

Foreign insurers.

(c) As to alien insurers, in lieu of such deposit or

Alien insurers.

part thereof in this state, the commissioner shall accept evidence satisfactory to him that the insurer maintains within the United States by way of trust deposits with public depositaries, or in trust institutions approved by the commissioner, assets available for discharge of its United States insurance obligations which assets shall be in amount not less than the outstanding liabilities of the insurer arising out of its insurance transactions in the United States, together with the larger of the following sums: (i) The largest deposit required by this code to be made by foreign insurers transacting like kinds of insurance, or (ii) three hundred thousand dollars ($300,000).

(2) Deposits of foreign or alien insurers in another state shall be in cash and/or securities of substantially the same quality as those eligible for deposit in this state under section 134 of this code.

(3) Deposits of reserves by domestic life insurers shall be made as provided in section 93.

(4) Deposits made in this state shall further be subject to the provisions of chapter 7 (administration of deposits).

Disqualification of management or affiliation.

Section 55. **Management and affiliations.** The commissioner shall not grant or continue authority to transact insurance in this state as to any insurer the principal management personnel of which is found by him to be untrustworthy or not of good character, or so lacking in insurance company managerial experience as to make the proposed operation hazardous to the insurance-buying public or to its stockholders; or which he has good reason to believe is affiliated directly or indirectly through ownership, control, management, reinsurance transactions or other insurance or business relations, with any person or persons whose business operations, to the detriment of insurers, stockholders, or creditors, are or have been marked by manipulation of assets, of accounts, or of reinsurance, or by bad faith.

Procedure—application for certificate of authority.

Section 56. **Application for certificate of authority.** To apply for an original certificate of authority an insurer shall file with the commissioner its application therefor (accompanied by the applicable fees as specified in section 45) showing its name, location of its home office or principal office in the United States (if an alien insurer), kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and such additional information as the commissioner may reasonably require, together with the following documents, as applicable:

Foreign insurer. (1) If a foreign insurer, a copy of its corporate charter, or articles of incorporation, with all amendments thereto, certified by the public officer with whom the originals are on file in the state or country of domicile.

Mutual insurer. (2) If a mutual insurer, a copy of its bylaws as amended, certified by its secretary or other officer having custody thereof.

Reciprocal insurer. (3) If a reciprocal insurer, copies of the power of attorney of its attorney in fact and of its subscribers' agreement, if any, certified by its attorney in fact.

Financial statement. (4) A copy of its financial statement as of December 31 next preceding, sworn to by at least two (2) executive officers of the insurer, or certified by the public insurance supervisory official of the insurer's state of domicile or of entry into the United States.

Report of examination. (5) Copy of report of last examination, if any, made of the insurer, certified by the insurance supervisory official of its state of domicile or of entry into the United States.

Attorney, for service of process. (6) Appointment of the commissioner pursuant to section 63, as its attorney to receive service of legal process.

Certificate of foreign or alien official. (7) If a foreign or alien insurer, a certificate of the public official having supervision of insurance in its state or country of domicile, or state of entry into the United States, showing that it is authorized to transact the kinds of insurance proposed to be transacted in this state.

Authority of U. S. manager. (8) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

Certificate of deposit. (9) If a foreign insurer, certificate as to deposit if to be tendered pursuant to section 54.

Specimen policies, rates.

(10) Specimen copies of policies proposed to be offered in this state, together with premiums or premium rates applicable, or a declaration that such rates as applicable will be those promulgated by designated rating organizations authorized to file such rates in this state on behalf of the insurer.

Issuance or refusal of authority.

Section 57. **Issuance or refusal of authority; ownership of certificate.** (1) If upon completion of its application the commissioner finds that the insurer has met the requirements for and is entitled thereto under this code, he shall issue to the insurer a proper certificate of authority; if he does not so find, the commissioner shall issue his order refusing such certificate. The commissioner shall act upon an application for a certificate of authority within thirty (30) days after its completion.

Certificate shall specify kinds of insurance.

(2) The certificate, if issued, shall specify the kind or kinds of insurance the insurer is authorized to transact in Montana. At the insurer's request, the commissioner may issue a certificate of authority limited to particular types of insurance or insurance coverages within the scope of a kind of insurance as defined in chapter 4 of this code.

Certificate remains property of state.

(3) Although issued to the insurer the certificate of authority is at all times the property of the State of Montana. Upon any expiration, suspension, or termination thereof the insurer shall promptly deliver the certificate of authority to the commissioner.

Continuance of certificate.

Section 58. **Continuance, expiration, reinstatement and amendment of certificate of authority.** (1) Certificates of authority issued or renewed under this code shall continue in force as long as the insurer is entitled thereto under this code and until suspended or revoked, or otherwise terminated; subject, however, to continuance of the certificate by the insurer each year by payment prior to May 15th of the continuation fee provided in section 45.

Expiration.

(2) If not so continued by the insurer, its certificate of authority shall expire as at midnight on May 31 next following such failure of the insurer so to continue it in force. The commissioner shall promptly notify the insurer of the occurrence of any such failure resulting in impending expiration of its certificate of authority.

Reinstatement.

(3) The commissioner may, in his discretion, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in such expiration, and upon payment by the insurer of the fee for reinstatement in addition to the current continuation fee, as provided in section 45. Otherwise, the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this state.

Amendment.

(4) The commissioner may amend a certificate of authority at any time to accord with changes in the insurer's charter of insuring powers.

Mandatory revocation, suspension of certificate.

Section 59. **Mandatory revocation, suspension of certificate of authority.** (1) The commissioner shall suspend or revoke an insurer's certificate of authority:

(a) If such action is required by any provision of this code;

(b) If the insurer no longer meets the requirements for the authority originally granted, on account of deficiency of assets or otherwise; or

(c) If the insurer's authority to transact insurance is suspended or revoked by its state of domicile, or state of entry into the United States if an alien insurer.

(2) Except in cases of insolvency or impairment of required capital or surplus, or suspension or revocation by another state as referred to in subdivision (c) above, the commissioner shall give the insurer at least fifteen (15) days notice in advance of any such suspension or revocation under this section.

Discretionary suspension, revocation.

Section 60. **Suspension or revocation for violations and special grounds.** (1) The commissioner may, in his discretion, suspend or revoke an insurer's certificate of authority if, after a hearing thereon, he finds that the insurer has violated any lawful order of the commissioner or any provision of this code other than those for which suspension or revocation is mandatory.

Hearing.

(2) The commissioner shall, after a hearing thereon,

Violations and special grounds.

suspend or revoke an insurer's certificate of authority if he finds that the insurer:

(a) Is in unsound condition, or in such condition, or using such methods or practices in the conduct of its business, as to render its further transaction of insurance in Montana injurious or hazardous to its policyholders or to the public.

(b) Has refused to be examined or to produce its accounts, records, and files for examination, or if any of its officers have refused to give information with respect to its affairs, when required by the commissioner.

(c) Has failed to pay any final judgment rendered against it in Montana within thirty (30) days after the judgment became final.

(d) With such frequency as to indicate its general business practice in Montana, has without just cause refused to pay proper claims arising under its policies, whether any such claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person, or without just cause compels such insured or claimant to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims.

(e) Is affiliated with and under the same general management or interlocking directorate or ownership as another insurer which transacts direct insurance in Montant without having a certificate of authority therefor, except as permitted as to a surplus line insurer under chapter 9.

(3) The commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation, or other delinquency proceedings, have been commenced in any state.

Notice of suspension or revocation of certificate.

Section 61. **Notice of suspension or revocation; effect upon agent's authority.** (1) Upon suspending or revoking an insurer's certificate of authority the commissioner shall forthwith give notice thereof to the insurer and to its agents in this state of record in the commissioner's office.

Authority of agent suspended or revoked.

(2) Such suspension or revocation shall likewise automatically suspend or revoke, as the case may be, the authority of all such agents to act as agents of the insurer in this state, and the commissioner shall so state in the notice to agents provided for in subsection (1).

Publication.

(3) In his discretion the commissioner may also publish notice of such revocation in one or more newspapers of general circulation published in this state.

Duration of suspension.

Section 62. **Duration of suspension; insurer's obligations; reinstatement.** (1) Suspension of an insurer's certificate of authority shall be for such period as is fixed by the commissioner, in the order of suspension, but not to exceed one year. During the suspension the commissioner may shorten the period thereof by his further order.

Duties of insurer during suspension.

(2) During the period of the suspension the insurer shall file its annual statement, pay fees, licenses and taxes as required under this code as if the certificate had continued in full force.

Automatic reinstatement except for cause.

Notice of cause.

(3) Upon expiration of the suspension period (if within such period the certificate of authority has not been terminated) the insurer's certificate of authority shall automatically reinstate, unless the commissioner finds that the causes of the suspension have not been removed, or that the insurer is otherwise not in compliance with the requirements of this code, and of which the commissioner shall give the insurer notice not less than thirty (30) days in advance of the expiration of such period. If not so automatically reinstated the certificate of authority shall be deemed to have expired as at the end of the suspension period or upon failure of the insurer to continue the certificate during the suspension period, whichever event shall first occur.

Reinstatement—agent's authority.

(4) Upon reinstatement of the insurer's certificate of authority, the authority of its agents in this state to represent the insurer shall likewise reinstate.

Notice of reinstatement.

(5) The commissioner shall forthwith notify both the

insurer and its agents in this state, as shown by his records, of such reinstatement.

Appointment of commissioner as attorney for service of process.

Section 63. **Commissioner attorney for service of process.** (1) Each insurer applying for authority to transact insurance in this state shall appoint the commissioner, and his successors in office, as its attorney to receive service of legal process issued against it in Montana. The appointment shall be made on a form as designated and furnished by the commissioner. The appointment shall be irrevocable, shall bind the insurer and any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force in Montana any contract made by the insurer or obligations arising therefrom.

Method of service of process.

(2) Service of such process against a foreign or alien insurer shall be made only by service of process upon the commissioner, or upon a deputy or other person in charge of his office during his absence. Service of process against a domestic insurer may be made either upon the commissioner or upon the insurer corporation in the manner provided by laws applying to corporations generally, or upon the insurer's attorney-in-fact if a domestic reciprocal insurer.

Designation of person to receive process.

(3) Each insurer at time of application for a certificate of authority shall file with the commissioner designation of the name and address of the person to whom process against it served upon the commissioner is to be forwarded. The insurer may change such designation by a new filing.

Procedure for serving process.

Section 64. **Serving process; time to plead.** (1) Duplicate copies of legal process against an insurer for whom the commissioner is attorney pursuant to section 63, shall be served upon the commissioner, or upon his deputy or other person in charge of his office during his absence. At the time of service the plaintiff shall pay to the commissioner three dollars ($3), taxable as costs in the action. Upon receiving such service the commissioner shall promptly forward a copy thereof by certified or registered mail to the person last so designated by the insurer to receive the same.

Time to plead.

(2) Where process is served upon the commissioner

as an insurer's attorney, the insurer shall have thirty (30) days within which to appear, answer, or plead after date of mailing of the copy thereof by the commissioner, exclusive of date of mailing, as provided by subsection (1).

Constitutes service.

(3) Process served upon the commissioner and copy thereof forwarded as in this section provided shall constitute service thereof upon the insurer.

Annual statement of insurer.

Section 65. **Annual statement.** (1) Each authorized insurer shall annually on or before March 1 file with the commissioner a full and true statement of its financial condition, transactions, and affairs as of the December 31 preceding. The statement shall be in such general form and context as is required or not disapproved by the commissioner, and as is in current use for similar reports to states in general with respect to the type of insurer and kinds of insurance to be reported upon, and as supplemented for additional information required by the commissioner. The statement shall be verified by the oath of the insurer's president or vice president, and secretary, or, if a reciprocal insurer, by the oath of the attorney-in-fact or its like officers if a corporation. The commissioner may, in his discretion, waive any such verification under oath.

Verification.

Waiver.

Statement of alien insurer.

(2) The statement of an alien insurer shall relate only to its transactions and affairs in the United States unless the commissioner requires otherwise. If the commissioner requires a statement as to an alien insurer's affairs throughout the world, the insurer shall file such statement with the commissioner as soon as reasonably possible. The statement shall be verified by the insurer's United States manager or other officer duly authorized.

Enforcement.

(3) The commissioner may refuse to accept fee for continuance of the insurer's certificate of authority, as provided in section 58, or may in his discretion suspend or revoke the certificate of authority of any insurer failing to file its annual statement when due.

Fee for filing statement.

(4) At time of filing, the insurer shall pay to the commissioner the fee for filing its statement as prescribed in section 45.

Insurer's annual report on premium income.

Section 66. **Tax.** (1) Each authorized insurer, and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state, shall file with the commissioner, on or before March 1 each year, a report (except as to wet marine and transportation insurance taxed under subsection (3) below) in form as prescribed by the commissioner showing total direct premium income including policy, membership and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance whether designated as a premium or otherwise, received by it during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana (with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state), after deducting from such total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance "premium" includes only the risk portion of the charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

Payment of premium taxes.

(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums, the tax to be computed at the rate of two percent of such premiums.

Provided, that where any insurer has not less than fifty percent of its paid-in capital stock invested in Montana securities, the insurer shall be allowed to deduct whatever tax it may have already paid to the State of Montana and its political subdivisions, during the same calendar year as to which premium tax is being paid, from the amount otherwise due under this section. For the purpose of this provision "paid-in capital stock" as to a mutual or reciprocal insurer shall be deemed to be an amount equal to ten percent of the insurer's assets; and "Montana securities" shall be deemed to include only general obligations of the State of Montana or of its political subdivisions, mortgage loans secured by a first lien upon real estate located in Montana, and real estate located in Montana owned by the insurer, all if otherwise lawful investments of the insurer under this code.

Insurer's annual report on underwriting profit on wet marine and transportation insurance.

(3) (a) On or before March 1 of each year each insurer shall file with the commissioner, on forms as prescribed and furnished or accepted by him, a report of its gross underwriting profit on wet marine and transportation insurance, as defined in section 78, written in this state during the calendar year next preceding, and shall at the same time pay to the commissioner a tax of three-quarters of one percent of such gross underwriting profit.

Taxes.

Computation of profit.

(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e. gross premiums less all return premiums and premiums for reinsurance) on such wet marine and transportation insurance contracts the net losses paid (i.e. gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this subsection (3) the amounts refunded, credited or paid as participation dividends or savings by such insurers to the holders of such contracts.

Specification of fire insurance premium taxes.

(4) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included

with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

Scope of taxes paid.

(5) With respect to authorized insurers the premium tax provided by this section shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state and taxes payable under section 82-1231, Revised Codes of Montana, 1947 (tax for support of state fire marshal activities), and demands for state, county, city, district, municipal, and school taxes, licenses, fees, and excises made because of operations prior to January 1, 1957.

State pre-emption of tax fields.

(6) The State of Montana hereby preempts the field of imposing excise, privilege, franchise, income, license, and similar taxes, licenses, and fees upon insurers and their general agents and agents as such, and on the intangible property of insurers or such agents; and no county, city, municipality, district, school district, or other political subdivision or agency in Montana shall levy upon insurers, or upon their general agents and agents as such, any such tax, license, or fee additional to such as are levied by the legislative assembly of Montana in this code.

Enforcement of tax payment.

(7) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

Applies to taxable years after December 31, 1960.

(8) The provisions of this section shall apply to taxable years beginning after December 31, 1960.

Resident agent required.

Section 67. **Resident agent required; countersignature; records; exceptions.** (1) No authorized insurer shall issue a policy covering a subject of insurance resident, located, or to be performed in Montana unless the policy is written through a licensed agent resident in Montana of the insurer, nor unless the policy or countersignature endorsement attached thereto is countersigned by such agent.

Countersignature.

(2) No such countersignature shall be made in blank. The agent may by express written authorization given in advance delegate to his salaried clerical employee the power to so countersign in the name of the agent such contracts or classes of contracts as are designated in such authorization, so long as the initials of such employee are written below the agent's name on such countersignature; but the agent shall not thereby delegate, or have power to delegate, to any other person the power or authority to bind an insurer with respect to any risk not already bound by the agent or other person having clear authority from the insurer so to bind. The agent shall be responsible for all of the acts of such employee within the scope of the authority so delegated. The agent shall keep a record of each and all coverages countersigned by him or by his authority.

Exceptions.

(3) This section shall not apply to:

(a) Reinsurance.

(b) Life insurance, disability insurance or annuity contracts.

(c) Insurance of the rolling stock, vessels or aircraft of any common carrier in interstate or foreign commerce, or of any vehicle principally garaged and used in another state, or covering any liability or other risks incident to the ownership, maintenance or operation thereof.

(d) Insurance of property in course of transportation interstate or in foreign trade, or any liability or risk incident thereto.

(e) Insurance of wet marine and transportation risks.

(f) With respect to countersignature to policies issued through agents compensated only by salary or issued by insurers not using agents in the general solicitation of business.

(4) Violation of this section shall not invalidate any contract otherwise valid as between the insurer and the insured.

Power to countersign.

Section 68. **Salaried personnel cannot countersign; exception for emergencies.** (1) With respect to policies subject to countersignature requirements under section

67, only a licensed agent of the insurer resident in Montana, whose compensation as such agent is by commission computed as a percentage of the premium received on each such policy written, shall have power to countersign as required by section 67.

Countersignature in event of emergency.

(2) No branch manager, state agent, special agent, general or any other like supervisory agent or any other representative of the insurer, whose compensation therefrom is in whole or in part by salary, shall have power to countersign such policies or countersignature endorsements thereto; except, that in an emergency where it is necessary that an insurance policy be issued without delay and no resident agent of the insurer having power to execute the policy is then reasonably available, then any other individual having authority therefor from the insurer may execute such policy in the first instance in order to make a contract between the insurer and the obligee or the insured, if such policy is subsequently countersigned in fact by such a resident agent.

Countersignature fee on foreign policies.

Section 69. **Policies originating outside state, commission of resident agent.** (1) As to policies or endorsements thereto which are subject to countersignature requirements under section 67 contracted for or otherwise originating outside the boundaries of Montana, there shall be payable to the countersigning agent, resident in Montana, a commission which shall not be less than five percent (5%) of the premium charged and received, but not to exceed fifty percent (50%) of the commission paid by the insurer, so that a record within Montana will be kept of such business and that the state may better receive any tax required by law to be paid with respect to such insurance. If, however, the originating agent or broker, or the insurer, desires additional service to be rendered during the term of the policy, then the compensation for such countersigning resident agent shall be in such additional amount as is fixed by mutual agreement of such parties in interest.

Reciprocal fees.

(2) Except, that if pursuant to the laws of another state the countersigning agents of that state retain as commission or compensation with respect to business originated by Montana agents more than five percent (5%) of the premium, then Montana agents who countersign policies representing business originated by

agents or brokers of such other state shall charge and receive a commission in amount not less than that so received by countersigning agents of the other state.

Countersignature of policies issued by home or branch office.

Section 70. **Policies issued at home or branch offices.** Nothing in sections 67 through 69 shall prevent any insurer from issuing any policy, as to which the resident agent or countersignature requirement of section 67 is applicable, at its home or branch office, but such policies shall be subsequently countersigned, where otherwise required, by its agent resident in Montana and the insurer's licensed agent resident in Montana shall receive the commission on such policy when the premium is paid. This section does not apply as to life insurance.

Retaliation.

Section 71. **Retaliation.** (1) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon Montana insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the commissioner upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in Montana. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on Montana insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this section.

(2) This section shall not apply as to personal income taxes, nor as to ad valorem taxes on real or per-

sonal property nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the commissioner in determining the propriety and extent of retaliatory action under this section.

Domicile defined.

(3) For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state designated by the insurer in writing filed with the commissioner at time of admission to this state or within six (6) months after the effective date of this code, whichever date is the later, and may be any one of the following states:

(a) That in which the insurer was first authorized to transact insurance;

(b) That in which is located the insurer's principal place of business in the United States;

(c) That in which is held the larger deposit of trusteed assets of the insurer for the protection of its policyholders and creditors in the United States.

If the insurer makes no such designation its domicile shall be deemed to be that state in which is located its principal place of business in the United States.

CHAPTER 4—KINDS OF INSURANCE; LIMITS OF RISK; REINSURANCE

Definitions not mutually exclusive.

Section 72. **Definitions not mutually exclusive.** It is intended that certain insurance coverages may come within the definitions of two or more kinds of insurance as defined in this chapter, and the inclusion of such coverage within one definition shall not exclude it as to any other kind of insurance within the definition of which such coverage may likewise be reasonably included.

"Life insurance" defined.

Section 73. **"Life insurance" defined.** Life insurance is insurance on human lives. The transaction of life insurance includes also the granting of endowment benefits, additional benefits in event of death or dismemberment by accident or accidental means, additional benefits in event of the insured's disability, and optional modes of settlement of proceeds of life insurance. Transaction of life insurance does not include workmen's compensation insurance.

"Disability insurance" defined.

Section 74. "**Disability insurance" defined.** Disability insurance is insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto. Transaction of disability insurance does not include workmen's compensation insurance.

"Property insurance" defined.

Section 75. "**Property insurance" defined.** Property insurance is insurance on real or personal property of every kind and of every interest therein, whether on land, water, or in the air, against loss or damage from any and all hazard or cause, and against loss consequential upon such loss or damage, other than noncontractual legal liability for any such loss or damage.

"Casualty insurance" defined.

Section 76. "**Casualty insurance" defined.** (1) Casualty insurance includes: (a) Vehicle insurance. Insurance against loss of or damage to any land vehicle or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incidental to ownership, maintenance or use of any such vehicle, aircraft or animal; together with insurance against accidental death or accidental injury to individuals, including the named insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft or draft or riding animal, if such insurance is issued as an incidental part of insurance on the vehicle, aircraft or draft or riding animal.

Liability insurance.

(b) Liability insurance. Insurance against legal liability for the death, injury, or disability of any human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance.

Workmen's compensation and employer's liability.

(c) Workmen's compensation and employer's liability. Insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees.

Burglary and theft.

(d) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal, or concealment, or from any attempt at any of the foregoing; including supplemental coverage for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents, resulting from any cause.

Personal property floater.

(e) Personal property floater. Insurance upon personal effects against loss or damage from any cause under a personal property floater.

Glass.

(f) Glass. Insurance against loss or damage to glass, including its lettering, ornamentation, and fittings.

Boiler and machinery.

(g) Boiler and machinery. Insurance against any liability and loss or damage to property or interest resulting from accident to or explosions of boilers, pipes, pressure containers, machinery, or apparatus, and to make inspection of and issue certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured.

Leakage and fire extinguishing equipment.

(h) Leakage and fire extinguishing equipment. Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus.

(i) Credit. Insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured.

Credit.

(j) Malpractice. Insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service.

Malpractice.

(k) Elevator. Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators, except loss or damage by fire, and to make inspection of and issue certificates of inspection upon, elevators.

Elevator.

(l) Livestock. Insurance against loss or damage to livestock, and services of a veterinary for such animals.

Livestock.

(m) Entertainments. Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other principals.

Entertainments.

(n) Miscellaneous. Insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this chapter, if such insurance is not disapproved by the commissioner as being contrary to law or public policy.

Miscellaneous.

(2) Provision of medical, hospital, surgical, and funeral benefits, and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under subdivisions (a) (vehicle), (b) (liability), (d) (burglary), and (j) (malpractice) of subsection (1) shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and shall not be subject to provisions of this code applicable to life or disability insurances.

Medical, hospital, surgical, funeral, accidental death or injury.

"Surety insurance" defined.

Section 77. **"Surety insurance" defined.** Surety insurance includes:

Fidelity.

(1) Fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust.

Guaranteeing performance.

(2) Insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship.

Indemnification.

(3) Insurance indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against check forgery or alteration, or against loss, resulting from any cause, of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semiprecious stones, including any loss while the same are being transported in armored motor vehicles, by mail, or by messenger, but not including any other risks of transportation or navigation; also insurance against loss or damage to such an insured's premises or to his furnishings, fixtures, equipment, safes, and vaults therein, caused by burglary, robbery, theft, vandalism or malicious mischief, or any attempt thereat.

"Marine," "wet marine and transportation" defined.

Section 78. **"Marine," "wet marine and transportation" insurance defined.** (1) "Marine insurance" includes:

(a) Insurance against any and all kinds of loss or damage to:

(i) Vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, monies, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment incident thereto, including marine builder's risks and all personal property floater risks, and

(ii) Person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance or use of the subject matter of such insurance (but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance or use of automobiles), and

(iii) Precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise, and

(iv) Bridges, tunnels and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion are the only hazards to be covered; piers, wharves, docks and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion; other aids to navigation and transportation, including dry docks and marine railways, against all risks.

(b) "Marine protection and indemnity insurance," meaning insurance against, or against legal liability of the insured for, loss, damage or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness or death or for loss of or damage to the property of another person.

(2) For the purposes of this code "wet marine and transportation" insurance is that part of marine insurance which includes only:

(a) Insurance upon vessels, crafts, hulls and of interests therein or with relation thereto;

(b) Insurance of marine builder's risks, marine war risks and contracts of marine protection and indemnity insurance;

(c) Insurance of freights and disbursements pertaining to a subject of insurance coming within this subsection; and

(d) Insurance of personal property and interests therein, in course of exportation from or importation into any country, and in course of transportation coastwise or on inland waters, including transportation by land, water, or air from point of origin to final destination, in respect to, appertaining to or in connection with, any and all risks or perils of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, storage, transshipment or reshipment incident thereto.

"Title insurance" defined.

Section 79. **''Title insurance'' defined.** Title insurance is insurance of owners of property or others having an interest therein, or liens or encumbrances thereon, against loss by encumbrance, or defective titles, or invalidity, or adverse claim to title.

Limit of risk.

Section 80. **Limit of risk.** (1) No insurer shall retain any risk on any one subject of insurance, whether located or to be performed in this state or elsewhere, in an amount exceeding ten percent (10%) of its surplus to policyholders.

"Subject of insurance" defined.

(2) A ''subject of insurance'' for the purposes of this section, as to insurance against fire and hazards other than windstorm, earthquake, or other catastrophe hazards, includes all properties insured by the same insurer which are customarily considered by underwriters to be subject to loss or damage from the same fire or the same occurrence of such other hazard insured against.

Deductions.

(3) Reinsurance ceded as authorized by section 81 of this code shall be deducted in determining risk retained. As to surety risks, deduction shall also be made of the amount assumed by any established incorporated co-surety and the value of any security deposited,

pledged, or held subject to the surety's consent and for the surety's protection.

Alien insurers.

(4) As to alien insurers, this section shall relate only to risks and surplus to policyholders of the insurer's United States branch.

"Surplus to policyholders" defined.

(5) "Surplus to policyholders" for the purposes of this section, in addition to the insurer's capital and surplus shall be deemed to include any voluntary reserves which are not required pursuant to law, and shall be determined from the last sworn statement of the insurer on file with the commissioner, or by the last report of examination of the insurer, whichever is the more recent at time of assumption of risk.

Exceptions.

(6) This section shall not apply to life or disability insurance, title insurance, insurance of wet marine and transportation risks, workmen's compensation insurance, employer's liability coverages, sprinklered risks, nor to any policy or type of coverage as to which the maximum possible loss to the insurer is not readily ascertainable on issuance of the policy.

Reinsurance. authority to accept.

Section 81. **Reinsurance.** (1) An insurer may accept reinsurance only of such kinds of risks, and retain risk thereon within such limits, as it is otherwise authorized to insure.

Authority to reinsure.

(2) An insurer may reinsure all or part of any particular risk with any solvent insurer authorized to transact insurance in one or more states and having surplus to policyholders in amount not less than the paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance.

Requirements for credit—as to alien insurer.

(3) No credit shall be allowed to an insurer, as an asset or as a deduction from liability, for reinsurance ceded to an alien insurer unless such alien insurer has surplus to policyholders in amount not less than the paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance and is either (a) authorized to transact insurance in at least one state of the United States, or (b) has an attorney-in-fact resident in the United States upon whom service of legal process may be made.

As to ceding insurer.

(4) Credit shall be allowed as an asset or as a deduction from liability, to any ceding insurer for reinsurance ceded to an assuming insurer qualified therefor under the foregoing provisions of this section; except that no such credit shall be allowed unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

Information regarding changes in reinsurance treaties.

(5) Upon request of the commissioner an insurer shall promptly inform the commissioner in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

Exception.

(6) This section shall not apply to wet marine and transportation insurance.

CHAPTER 5 — ASSETS AND LIABILITIES

"Assets" defined to determine insurer's financial condition.

Section 82. **"Assets" defined.** In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(1) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company.

(2) Investments, securities, properties and loans acquired or held in accordance with this code, and in connection therewith the following items:

(a) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

(b) Declared and unpaid dividends on stock and shares, unless such amount has otherwise been allowed as an asset.

(c) Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon.

(d) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the commissioner a collectible asset.

(e) Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of eighteen (18) months be allowed as an asset.

(f) Rent due or accrued on real property if such rent is not in arrears for more than three months, and rent more than three months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral.

(g) The unaccrued portion of taxes paid prior to the due date on real property.

(3) Premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and accrued interest thereon, in an amount not exceeding the legal reserve and other policy liabilities carried on each individual policy.

(4) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer.

(5) Premiums in the course of collection, other than for life insurance, not more than three (3) months past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable directly or indirectly by the United States government or by any of its instrumentalities.

(6) Installment premiums other than life insurance premiums to the extent of the unearned premium reserve carried on the policy to which premiums apply.

(7) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon.

(8) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under section 81.

(9) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty.

(10) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the commissioner available for the payment of losses and claims and at values to be determined by him.

(11) Electronic data processing machines if the cost of each such machine is at least one hundred thousand dollars, which cost shall be amortized in full over a period of not to exceed ten calendar years.

(12) All assets, whether or not consistent with the provisions of this section, as may be allowed pursuant to the annual statement form approved by the commissioner for the kinds of insurance to be reported upon therein.

(13) Other assets, not inconsistent with the provisions of this section, deemed by the commissioner to be available for the payment of losses and claims, at values to be determined by him.

Assets as deductions from liabilities.

Section 83. **Assets as deductions from liabilities.** Assets may be allowed as deductions from corresponding liabilities, and liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to the insurer as prescribed by the commissioner, or otherwise in his discretion.

Assets not allowed.

Section 84. **Assets not allowed.** In addition to assets impliedly excluded by the provisions of section 82 of this chapter, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Good will, trade names and other like intangible assets.

(2) Advances to officers (other than policy loans) whether secured or not, and advances to employees, agents and other persons on personal security only.

(3) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any proportionate interest in such stock acquired or held through the own-

ership by such insurer of an interest in another firm, corporation or business unit.

(4) Furniture, fixtures (other than electronic data processing machines authorized under section 82 (11)), furnishings, safes, vehicles, libraries, stationery, literature and supplies, except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under section 129 of this code and except, in the case of any insurer, such personal property as the insurer is permitted to hold pursuant to chapter 6 of this code, or which is acquired through foreclosure of chattel mortgages acquired pursuant to section 124 of this code, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office and similar purposes.

(5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code.

Liabilities to determine financial condition of insurer.

Section 85. **Liabilities, in general.** In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

(1) The amount of its capital stock outstanding, if any.

(2) The amount, estimated consistent with the provisions of this code, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof.

(3) With reference to life and disability insurance and annuity contracts:

(a) The amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to this code which are applicable thereto.

(b) Reserves for disability benefits, for both active and disabled lives.

(c) Reserves for accidental death benefits.

(d) Any additional reserves which may be required by the commissioner consistent with practice formulated or approved by the national association of insurance commissioners, on account of such insurance.

(4) With reference to insurance other than specified in subsection (3) of this section, and other than title insurance, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, computed in accordance with this chapter.

(5) Taxes, expenses and other obligations due or accrued at the date of the statement.

Insurer's duty to maintain unearned premium reserve.

Section 86. **Unearned premium reserve.** (1) As to insurance against loss or damage to property (except as provided in section 87), and as to all general casualty insurance and surety insurance, every insurer shall maintain an unearned premium reserve on all policies in force.

Computation.

(2) The commissioner may require that such reserves shall be equal to the unearned portions of the gross premiums in force after deducting applicable reinsurance in solvent insurers as computed on each respective risk from the policy's date of issue. If the commissioner does not so require, the portions of the gross premium in force, less applicable reinsurance in solvent insurers, to be held as an unearned premium reserve, shall be computed according to the following table:

Term for Which Policy Was Written	Reserve for Unearned Premium	
1 year or less		½
2 years	1st year	¾
	2nd year	¼
3 years	1st year	5/6
	2nd year	½
	3rd year	1/6
4 years	1st year	7/8
	2nd year	⅝
	3rd year	⅜
	4th year	⅛
5 years	1st year	9/10
	2nd year	7/10
	3rd year	½

4th year	3/10
5th year	1/10
Over 5 years	pro rata

Option for computation.

(3) In lieu of computation according to the foregoing table, the insurer at its option may compute all of such reserves on a monthly or more frequent pro rata basis.

Change of method.

(4) After adopting a method for computing such reserve, an insurer shall not change methods without approval of the commissioner.

Exception.

(5) This section does not apply to title insurance.

Unearned premium reserve for marine and transportation insurance.

Section 87. **Unearned premium reserve for marine and transportation insurance.** As to marine and transportation insurance, the entire amount of premiums on trip risks not terminated shall be deemed unearned; and the commissioner may require the insurer to carry a reserve equal to one hundred percent (100%) of premiums on trip risks written during the month ended as of the date of statement.

Reserve for disability insurance.

Section 88. **Reserve for disability insurance.** For all disability insurance policies the insurer shall maintain an active life reserve which shall place a sound value on its liabilities under such policies and be not less than the reserve according to appropriate standards set forth in regulations issued by the commissioner and, in no event, less in the aggregate than the pro rata gross unearned premiums for such policies.

Less reserves—liability insurance and workmen's compensation.

Section 89. **Loss reserves, liability insurance and workmen's compensation.** Where required in the form of annual statement required of the insurer, the reserve for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable, shall be computed as follows:

Computation.

(1) For all liability suits being defended under policies written more than:

(a) Ten (10) years prior to the date as of which the statement is made, $1,500 for each suit.

(b) Five (5) or more and less than ten (10) years prior to the date as of which the statement is made, $1,000 for each suit.

(c) Three (3) or more and less than five (5) years prior to the date as of which the statement is made, $850 for each suit.

(2) For all liability policies written during the three (3) years immediately preceding the date as of which the statement is made, the reserve shall be sixty percent (60%) of the earned liability premiums of each of such three (3) years less all losses and expense payments made under liability policies written in the corresponding years; but in any event, such reserve shall for the first of such three (3) years be not less than $750 for each outstanding liability suit on such year's policies.

(3) For all workmen's compensation claims under policies written more than three (3) years prior to the date as of which the statement is made, the reserve shall be the present value at four percent (4%) interest of the determined and the estimated future payments.

(4) For all workmen's compensation claims under policies written in the three (3) years immediately preceding the date as of which the statement is made, such reserve shall be sixty-five percent (65%) of the earned compensation premiums of each of such three years, less all loss and loss expense payments made in connection with such claims under policies written in the corresponding years. But in any event in the case of the first year of any such three-year period, such reserve shall be not less than the present value at four percent (4%) interest of the determined and the estimated unpaid compensation claims under policies written during such year.

Increase of inadequate reserves.

Section 90. **Increase of inadequate reserves.** If loss experience shows that an insurer's loss reserves, however computed or estimated, are inadequate, the commissioner shall require the insurer to maintain loss reserves in such increased amount as is needed to make them adequate.

Title insurance reserves.

Section 91. **Title insurance reserves.** In addition to an adequate reserve as to outstanding losses as required under section 85, a title insurer shall maintain a guaranty fund or unearned premium reserve of not less than an amount computed as follows:

Computation.

(1) Ten percent (10%) of the total amount of the risk premiums written in the calendar year for title insurance contracts shall be assigned originally to the reserve.

(2) During each of the twenty (20) years next following the year in which the title insurance contract was issued, the reserve applicable to the contract may be reduced by five percent (5%) of the original amount of such reserve.

Standard valuation law—life insurance reserves.

Section 92. **Standard valuation law—Life insurance.** (1) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. For the purpose of making such valuation the commissioner may employ a competent actuary who shall be paid by the insurer for which the service is rendered; but a domestic insurer may make such valuation and it may be received by the commissioner upon satisfactory proof of its correctness. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

Any insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

Exception existing contracts.

(2) This subsection shall apply to only those policies and contracts issued prior to the operative date of section 325 (the standard nonforfeiture law).

Minimum standard of reserve valuation.

The minimum standard of valuation on all policies of domestic life insurers issued prior to January 1, 1922, shall be the American experience table of mortality and interest at three and one-half percent (3½%) per annum, with preliminary term insurance for the first policy year, and for policies of such insurers issued subsequent to December 31, 1921, shall be the American experience table of mortality with interest at three and one-half percent (3½%) per annum, with preliminary term insurance for the first policy year, except as follows: If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than twenty (20) years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for life insurance under twenty (20) payment life preliminary term policies of the same insurer, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty (20) payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium reserve sufficient to provide for a pure endowment at the end of the premium payment period equal to the difference between the value at the end of such period of such a twenty (20) payment life preliminary term policy and the full net level premium reserve at such time of such a limited payment life or endowment policy.

Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(3) This subsection shall apply to only those policies and contracts issued on or after the operative date of section 325 (the standard nonforfeiture law).

Minimum standard for valuation of policies and contracts.

(a) The minimum standard for the valuation of all such policies and contracts shall be the commissioner's reserve valuation method defined in subdivision (b), three and one-half percent (3½%) interest, and the following tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the commissioners 1941 standard ordinary mortality table; except, that for any category of such policies issued on female risks, modified net premiums and present values, referred to in subdivision (b), may be calculated, at the option of the insurer with the approval of the commissioner, according to an age younger than the actual age of the insured.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the 1941 standard industrial mortality table.

(iii) For annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies,— the 1937 standard annuity mortality table.

(iv) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—class (3) disability table (1926) which, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(v) For accidental death benefits in or supplementary to policies—the inter-company double indemnity mortality table combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vi) For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

Computatoin of reserves for uniform policies.

(b) Reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:

Computation of modified net premiums.

(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(B) A net one year term premium for such benefits provided for in the first policy year.

Computation of reserves for varying amount policies.

Reserves according to the commissioners reserve valuation method for (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (ii) annuity and pure endowment contracts, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this subdivsion (b).

Minimum aggregate reserves.

(c) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in subdivision (b) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

Option to adopt method creating greater aggregate reserves.

(d) Reserves for any category of policies, contracts or benefits as established by the commissioner, may be calculated at the option of the insurer according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein. Provided, however, that reserves for participating life insurance policies may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half percent (½%) the insurer issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve.

Deficiency reserves.

(e) Deficiency reserves. If the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

Computation.

Deposit of reserves—domestic life insurers.

Section 93. **Deposit of reserves, domestic life insurers.** (1) Domestic life insurers shall deposit and maintain on deposit, in securities and assets, with depositaries and subject to conditions as provided for in chapter 7 of this code, an amount not less than the reserves on its outstanding life insurance policies, and annuity contracts, as valued under section 92.

Amount.

Annual deposit of additional securities.

(2) Annually on or before April 1, the insurer shall so deposit any additional such securities required under subsection (1) and related to the increase of such reserves during the calendar year next preceding, as determined from the insurer's annual statement as at December 31 of such preceding year.

Credit of domestic stock life insurer.

(3) A domestic stock life insurer may credit toward such deposit the amount of any other deposit of the insurer held under chapter 7 for the protection of its policyholders or of its policyholders and creditors.

Deposits shall consist of qualified securities and assets.

Exceptions.

(4) Deposits of the reserves of a domestic life insurer under this section shall consist of securities and assets acquired in accordance with chapter 6 of this code except as follows:

(a) Common stocks acquired under section 113 and investment trust securities acquired under section 117 shall be eligible for deposit only to the extent of fifty percent of the value at which they are carried in the last financial statement on file with the commissioner or their cost if acquired since the date of the last statement on file.

(b) Securities acquired under section 122 (miscellaneous investments) shall not be eligible for deposit.

(c) Only real estate acquired under section 125 (1) shall be eligible for deposit, and in no case shall the value of such real estate for deposit purposes exceed the original cost.

Loan as part of deposit.

Non-negotiable securities.

Deed of trust.

(5) Real estate mortgage loans, chattel mortgage loans and policy loans may be made a part of the deposit by filing a verified statement of the loans with the commissioner, which statement shall be subject to audit at all times by the commissioner. Nonnegotiable securities where deposited with the commissioner shall be accompanied by transfer powers in due form. If the insurer uses the home office real estate under section 125 (1) as a deposit, a deed of trust to the commissioner shall be completed in due form and recorded prior to being deposited with the commissioner.

In event of default.

(6) If default occurs in the payment of interest or principal of any deposited security and such default con-

tinues for a period of one hundred twenty (120) days, the commissioner may declare such security no longer eligible for deposit under this section.

Valuation of bonds.

Section 94. **Valuation of bonds.** (1) All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

(a) If purchased at par, at the par value.

(b) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the commissioner.

(c) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

(d) Unless otherwise provided by valuation established or approved by the commissioner, no such security shall be carried at above the call price for the entire issue during any period within which the security may be so called.

(2) The commissioner shall have full discretion in determining the method of calculating values according to the rules set forth in this section.

Valuation of other securities.

Section 95. **Valuation of other securities.** (1) Securities, other than those referred to in section 94, held by an insurer, shall be valued, in the discretion of the commissioner, at their market value, or at their appraised value, or at prices determined by him as representing their fair market value.

(2) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and in accordance with such method of computation as he may approve.

Valuation of property—real and personal.

Section 96. **Valuation of property.** (1) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the commissioner to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(2) Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal. If valuation is based on an appraisal more than three years old, the commissioner may at his discretion call for and require a new appraisal in order to determine fair value.

(3) Personal property acquired pursuant to chattel mortgages made in accordance with section 124 shall not be valued at an amount greater than the unpaid balance of principal on the defaulted loan at the date of acquisition, together with taxes and expenses incurred in connection with such acquisition, or the fair value of such property, whichever amount is the lesser.

Valuation of purchase money mortgages.

Section 97. **Valuation of purchase money mortgages.** Purchase money mortgages on real property referred to in subsection (1) of section 96 of this chapter shall be valued in an amount not exceeding the acquisition cost of the real property covered thereby or ninety percent (90%) of the fair value of such real property, whichever is less.

Investments.

CHAPTER 6 — INVESTMENTS

Section 98. **Scope of chapter.** Except as to section 131, this chapter shall apply to domestic insurers only.

Eligible investments.

Section 99. **Eligible investments.** (1) Insurers shall invest in or lend their funds on the security of, and shall hold as invested assets, only eligible investments as prescribed in this chapter.

Existing investments.

(2) Any particular investment held by an insurer on the effective date of this code, and which was a legal

investment at the time it was made, and which the insurer was legally entitled to possess immediately prior to such effective date, shall be deemed to be an eligible investment.

(3) Eligibility of an investment shall be determined as of the date of its making or acquisition, except as stated in subsection (2) above.

(4) Any investment limitation based upon the amount of the insurer's assets or particular funds shall relate to such assets or funds as shown by the insurer's annual statement as of the December 31 next preceding date of acquisition of the investment by the insurer, or as shown by a current financial statement filed with the commissioner.

General qualifications of investments.

Section 100. **General qualifications.** (1) No security or investment (other than real and personal property acquired under section 125 (real estate) of this chapter) shall be eligible for acquisition unless it is interest bearing or interest accruing or dividend or income paying, if not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit the interest or income accruing thereon.

(2) No security or investment shall be eligible for purchase at a price above its market value.

(3) No provision of this chapter shall prohibit the acquisition by an insurer of other or additional securities or property if received as a dividend or as a lawful distribution of assets, or under a lawful and bona fide agreement of bulk reinsurance, merger, or consolidation. Any investment so acquired which is not otherwise eligible under this chapter shall be disposed of pursuant to section 127 if personal property or securities, or pursuant to section 126 if real property.

Authorization of investment.

Section 101. **Authorization of investment.** An insurer shall not make any investment or loan (other than policy loans or annuity contract loans of a life insurer) unless the same is authorized or approved by the insurer's board of directors or by a committee authorized by such board and charged with the supervision or making of such investment or loan. The minutes of any such committee shall be recorded and regular reports of such committee shall be submitted to the board of directors.

Limitations on diversification of investments.

Section 102. **Diversification of investments.** An insurer shall invest in or hold as admitted assets categories of investments only within applicable limits as follows:

One person.

(1) One person. An insurer shall not, except with the consent of the commissioner, have at any one time any combination of investments in or loans upon the security of the obligations, property, or securities of any one person, or insurer, aggregating an amount exceeding five percent of the insurer's assets. This restriction shall not apply as to general obligations of the United States of America or of any state or include policy loans made under section 118.

Voting stock.

(2) Voting stock. An insurer shall not invest in or hold at any one time more than ten percent of the outstanding voting stock of any corporation, except with the consent of the commissioner given with respect to voting rights of preference stock during default of dividends. This provision does not apply as to stock of a wholly-owned subsidiary of the insurer or to controlling stock of an insurer acquired under section 114.

Minimum capital.

(3) Minimum capital. An insurer (other than title insurer) shall invest and maintain invested funds not less in amount than the minimum paid-in capital stock required under this code of a domestic stock insurer transacting like kinds of insurance, only in cash and the securities provided for under the following sections of this chapter: Section 103 (U. S. or Canadian government obligations), section 105 (state, county, municipal, etc., obligations), and section 123 (real estate mortgages).

Life insurance reserves.

(4) Life insurance reserves. A life insurer shall also invest and keep invested its funds in amount not less than the reserves under its life insurance policies and annuity contracts (other than variable annuities) in force, in cash and/or the securities or investments provided for under section 93.

Corporate obligations.

(5) Corporate obligations. Except with the commissioner's consent, an insurer shall not have invested at any one time more than twenty percent of its assets in the class of securities described in section 111 (corporate

bonds and debentures), exclusive of obligations of public utilities.

(6) Common stocks. An insurer may invest and have invested at any one time in aggregate amount not more than ten percent of its assets in all stocks under sections: 113 (common stocks), 114 (insurance stocks), and 117 (investment trust certificates). Determination of the amount which an insurer has invested in common stocks for the purposes of this provision shall be based on the cost of such stocks to the insurer. This provision shall not apply as to stock of a controlled or subsidiary insurance corporation or other corporations under sections 114 and 115.

Common stocks.

(7) Miscellaneous. Except with the commissioner's consent, an insurer shall not have invested at any one time more than ten percent of its assets in the class of securities described in any one of the following sections: Sections 107 (improvement district obligations), 112 (preferred or guaranteed stock), and 116 (equipment trust certificates).

Miscellaneous.

(8) Other specific limits. Limits as to investments in the category of real estate shall be as provided in section 125; and other specific limits shall apply as stated in the sections dealing with other respective kinds of investments.

Other specific limits.

Section 103. **United States or Canadian government obligations.** An insurer may invest in bonds, notes, warrants and other evidences of indebtedness which are direct obligations of the United States of America or of Canada or for which the full faith and credit of the United States of America or of Canada is pledged for the payment of principal and interest.

United States and Canadian government obligations.

Section 104. **Loans guaranteed by the United States or Canada.** An insurer may invest in loans guaranteed as to principal and interest by the United States of America or Canada, or by any agency or instrumentality of the United States of America or Canada.

Loans guaranteed by United States or Canada.

Section 105. **State, county, municipal, and school obligations.** An insurer may invest any of its funds in bonds or other evidences of indebtedness which are general obligations of, or are secured by pledge of specific

State, county, municipal, school, obligations.

revenues by, this state or of any other state of the United States or province of Canada, or of any of the counties or incorporated cities or towns, or duly organized school districts, or other taxing districts of such states or provinces.

Revenue bonds.

Section 106. **Revenue bonds.** An insurer may invest in bonds, notes or evidences of indebtedness of any state of the United States or province of Canada or any political subdivision thereof or any agency or instrumentality of any of the foregoing, which are payable from revenues or earnings specifically pledged for the payment of the principal and interest on such obligations, and for the payment of which a lawful sinking fund or reserve fund has been established and is being maintained.

Improvement district obligations.

Section 107. **Improvement district obligations.** An insurer may invest in bonds, notes or evidences of indebtedness issued by any local improvement district in this or any other state to finance local improvements authorized by law, if the principal and interest of such obligations is payable from assessments on real property within such local improvement district. No such investment shall be made if the face value of all such obligations, together with all similar obligations of such improvement district outstanding, exceed fifty percent (50%) of the market value of the real property and improvements upon which such bonds or the assessments for the payment of principal and interest thereon are liens inferior only to the liens for general ad valorem property taxes.

Irrigation district obligations.

Section 108. **Irrigation district obligations.** An insurer may invest in the bonds, notes or evidences of indebtedness of any irrigation district organized under the laws of Montana.

Federal agency obligations and stock.

Section 109. **Obligations, stock of certain federal agencies.** An insurer may invest in the obligations, and/or stock where stated, of the following agencies of the government of the United States of America, whether or not such obligations are guaranteed by such government:

(1) Commodity credit corporation.

(2) Federal intermediate credit banks.

(3) Federal land banks.

(4) Central bank for cooperatives.

(5) Federal home loan banks, and stock thereof.

(6) Federal national mortgage association, and stock thereof when acquired in connection with sale of mortgage loans to such association.

(7) Any other similar agency of the government of the United States of America and of similar financial quality.

International bank.

Section 110. **International bank.** An insurer may invest in obligations issued, assumed or guaranteed by the international bank for reconstruction and development.

Corporate bonds and debentures.

Section 111. **Corporate bonds and debentures.** (1) An insurer may invest in bonds, debentures, notes and other evidences of indebtedness issued, assumed or guaranteed by any solvent institution existing under the laws of the United States of America or of Canada, or any state of province thereof, which are not in default as to principal or interest and which are secured by adequate collateral and bear fixed interest and if during each of any three, including either the last two, of the five fiscal years next preceding the date of acquisition by the insurer, the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges, as hereinafter defined, shall have been not less than one and one-quarter times the total of its fixed charges for such year. In determining the adequacy of collateral security, not more than one-third of the total value of such required collateral shall consist of common stock.

Interest bearing corporate obligations.

(2) An insurer may invest in secured and unsecured obligations of such institutions (other than obligations described in subsection (1) bearing interest at a fixed rate, with mandatory principal and interest due at specified times, if the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges for a period of five (5) fiscal years next preceding the date of acquisition by such insurer have averaged per year not less than one-and-one-half times its average annual fixed charges applicable to such period and if during either of the last two (2) years of such period such

net earnings have been not less than one and one-half times its fixed charges for such year.

Corporate adjustment, income and other contingent interest obligations.

(3) An insurer may invest in adjustment, income, or other contingent interest obligations of such institutions if the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges for a period of five fiscal years next preceding the date of acquisition by the insurer shall have averaged per year not less than one and one-half times the sum of its average annual fixed charges and its average annual maximum contingent interest applicable to such period and if during either of the last two years of such period such net earnings shall have been not less than one and one-half times the sum of its fixed charges and maximum contingent interest for such year.

"Net earnings available for fixed charges" defined.

(4) Within the meaning of this section, the term ''net earnings available for fixed charges'' means net income after deducting operating and maintenance expenses, taxes other than federal income taxes, depreciation and depletion, but excluding extraordinary non-recurring items of income or expense appearing in the regular financial statements of the issuing, assuming or guaranteeing institutions. The term ''fixed charges'' shall include interest on funded and and unfunded debt, amortization of debt discount, and rentals for leased properties.

"Fixed charges" defined.

Preferred or guaranteed stock.

Section 112. **Preferred or guaranteed stock.** An insurer may invest in preferred or guaranteed stocks or shares of any solvent institution existing under the laws of the United States of America or of Canada, or of any state or province thereof, if all of the prior obligations and prior preferred stocks, if any, of such institution at the date of acquisition of the investment by such insurer are eligible as investments under this chapter and if the net earnings of such institution available for its fixed charges during each of the last two (2) years have been, and during each of the last five (5) years have averaged, not less than one and one-half times the sum of its average annual fixed charges, if any, its average annual maximum contingent interest, if any, and its average annual preferred dividend requirements. For the purposes of this section such computation shall refer to the fiscal years immediately preceding the date of acquisition of the investment by the insurer, and the term "preferred dividend requirement" shall be deemed to mean cumulative or noncumulative dividends, whether paid or not.

Common stocks.

Section 113. **Common stocks.** An insurer may invest in nonassessable common stocks, other than insurance stocks, of any solvent corporation existing under the laws of the United States of America or of Canada, or any state or province thereof, if cash or stock dividends have been earned and paid on its common stock in each of the five fiscal years preceding such acquisition; and if, further, all prior obligations or preference stock of such corporation, if any, are eligible for investment under this chapter. If the issuing corporation has not been in legal existence for the whole of the five preceding fiscal years but was formed as a consolidation or merger of two or more businesses, the test of eligibility for investment of its common stock under this section shall be based upon consolidation pro-forma statements of the predecessor or constituent institutions.

Insurance stocks.

Section 114. **Insurance stocks.** (1) An insurer may invest in the stocks of other solvent insurers formed under the laws of this or another state, which stocks meet the applicable requirements of sections 112 (preferred or guaranteed stock) and 113 (common stocks).

Controlling interest.

(2) With the commissioner's consent an insurer may acquire and hold the controlling interest in the outstanding voting stock of another stock insurer formed under the laws of this or another state. All stocks under this subsection shall be subject to the limitation as to amount as provided in section 115.

Stocks of subsidiaries.

Section 115. **Stocks of subsidiaries.** With the commissioner's consent an insurer may invest in the stock of its wholly-owned subsidiary insurance corporation; or in the stock of its wholly-owned subsidiary business corporation formed under the laws of this state and necessary and incidental to the convenient operation of the insurer's insurance business or to the administration of any of its investments. All of the insurer's investments under this section, together with its investments in insurance stocks under section 114 (2), shall not at any time exceed the amount of the investing insurer's surplus, if a life insurer, or its surplus to policyholders if other than a life insurer.

Equipment trust certificates.

Section 116. **Equipment trust certificates.** An insurer may invest in equipment trust obligations or certificates adequately secured and evidencing an interest in transportation equipment, wholly or in part within the United States of America, which obligations or certificates carry the right to receive determined portions of rental, purchase, or other fixed obligatory payments to be made for the use or purchase of such transportation equipment.

Investment trust securities.

Section 117. **Investment trust securities.** An insurer may invest in the securities of any management type investment company or investment trust registered with the Federal Securities and Exchange Commission under the Investment Company Act of 1940 as from time to time amended, if such investment company or trust has assets not less than fifty million dollars ($50,000,000) as at date of investment by the insurer.

Policy loans.

Section 118. **Policy loans.** A life insurer may lend to its policyholder upon pledge of the policy as collateral security, any sum not exceeding the cash surrender value of the policy; or may lend against pledge or assignment of any of its supplementary contracts or other contracts or obligations, so long as the loan is adequately secured by such pledge or assignment. Loans so made are eligible investments of the insurer.

Collateral loans.

Section 119. **Collateral loans.** An insurer may lend and thereby invest its funds upon the pledge of securities eligible for investment under this chapter. As at date made, no such loan shall exceed in amount seventy-five percent (75%) of the market value of such collateral pledged. The amount so loaned shall be included pro rata in determining the maximum percentage of funds permitted under this chapter to be invested in the respective categories of securities so pledged.

Savings and loan associations.

Section 120. **Savings and loan.** To the extent that such an account is insured by the Federal Savings and Loan Insurance Corporation, an insurer may invest in share or savings accounts of savings and loan and building and loan associations.

Foreign securities.

Section 121. **Foreign securities.** An insurer authorized to transact insurance in a foreign country may make investments, in aggregate amount not exceeding its deposit and obligations incurred in such country, in securities of or in such country possessing characteristics and of a quality similar to like investments required pursuant to this chapter for investments in the United States of America. Canadian securities eligible for investment under other provisions of this chapter are not subject to this section.

Miscellaneous investments.

Section 122. **Miscellaneous investments.** (1) An insurer may make loans or investments not otherwise expressly permitted under this chapter, in aggregate amount not over five percent of the insurer's assets and not over one percent of such assets as to any one such loan or investment, if such loan or investment fulfills the requirements of section 100 and otherwise qualifies as a sound investment. But no such loan or investment shall be represented by:

(a) Any item described in section 84 (assets not allowed) of this code, or any loan or investment otherwise expressly prohibited.

(b) Agents' balances, or amounts advanced to or owing by agents or former agents of the insurer, whether or not secured; except as to policy loans, mortgage loans, and collateral loans otherwise authorized under this chapter.

(c) Any category of loans or investments eligible under any other provisions of this chapter.

(d) Any asset theretofore acquired or held by the insurer under any other category of loans or investments eligible under this chapter.

(2) The insurer shall keep a separate record of all loans and investments made under this section.

Real estate mortgages.

Section 123. **Real estate mortgages.** (1) An insurer may invest any of its funds in bonds, notes or other evidences of indebtedness which are secured by first mortgages or deeds of trust upon improved real property located in the United States or Canada, or which are secured by first mortgages or deeds of trust upon leasehold estates having an unexpired term of not less than twenty-one (21) years (inclusive of the term or terms which may be provided by enforceable options of renewal) in improved real property located in the United States or Canada. In all cases the security for the loan must be a first lien upon such real property, and there must not be any condition or right of re-entry or forfeiture not insured against, under which, in the case of real property other than leaseholds, such lien can be cut off or subordinated or otherwise disturbed or under which, in the case of leaseholds, the insurer is unable to continue the lease in force for the duration of the loan. Nothing herein shall prohibit any investment by reason of the existence of any prior lien for ground rents, taxes, assessments or other similar charges not yet delinquent. This section shall not be deemed to prohibit investment in mortgages or similar obligations when made under section 121 (foreign securities).

(2) ''Improved real estate'' means all farm lands used for tillage, crop, or pasture, timberlands, and all real estate on which permanent improvements suitable for residence, institutional, commercial or industrial use are situated.

(3) No such mortgage loan or loans made or acquired by an insurer on any one property shall, at the time of investment by the insurer, exceed the larger of the following amounts as applicable:

(a) Two-thirds of the value of the real property or leasehold securing the same; or

(b) The amount of any insurance or guaranty of such loan by the United States of America or by any agency or instrumentality thereof; or

(c) Two-thirds of the value of the real property or leasehold securing the same, plus the amount by which the excess of such loan over such two-thirds is insured or guaranteed by the United States of America or by any agency or instrumentality thereof.

Except, that in the case of a purchase money mortgage given to secure the purchase price of real estate sold by the insurer, the amount so loaned or invested shall not exceed the unpaid portion of the purchase price.

(4) No such mortgage loan or loans shall be made or acquired by an insurer except after an appraisal made by a qualified appraiser for the purpose of such investment.

(5) No such mortgage loan made or acquired by an insurer which is a participation or a part of a series or issue secured by the same mortgage or deed of trust shall be a lawful investment under this section unless the entire series or issue which is secured by the same mortgage or deed of trust is held by such insurer, or unless the insurer holds a senior participation in such mortgage or deed of trust, giving it substantially the rights of a first mortgagee.

(6) No mortgage loan upon a leasehold shall be made or acquired pursuant to this section unless the terms thereof shall provide for amortization payments to be made by the borrower on the principal thereof at least once in each year in amounts sufficient completely to amortize the loan within a period of four-fifths of the term of the leasehold, inclusive of the term which may be provided by an enforceable option of renewal, which is unexpired at the time the loan is made, but in no event exceeding thirty-five (35) years.

Chattel mortgages.

Section 124. **Chattel mortgages.** (1) In connection with a mortgage loan on the security of real estate designed and used primarily for residential purposes only, which mortgage loan was acquired pursuant to section 123 of this chapter, an insurer may lend or invest an amount not exceeding twenty percent (20%) of the amount loaned on or invested in such real estate mortgage on the security of a chattel mortgage to be amortized by regular periodic payments within a term of not more than five (5) years, and representing a first and prior lien, except for taxes not then delinquent, on personal property constituting durable equipment owned by the mortgagor and kept and used in the mortgaged premises.

(2) For the purposes of this section, the term ''durable equipment'' shall include only mechanical refrigerators, air conditioning equipment, mechanical laundering machines, heating and cooking stoves and ranges, and,

in addition, in the case of apartment houses, motels and hotels, room furniture and furnishings.

(3) Prior to the acquisition of a chattel mortgage hereunder, items of property to be included therein shall be separately appraised by a qualified appraiser and the fair market value thereof determined. No such chattel mortgage loan shall exceed in amount the same ratio of loan to the value of the property as is applicable to the companion loan on the real property.

(4) This section shall not prohibit an insurer from taking liens on personal property as additional security for any investment otherwise eligible under this chapter.

Real estate.

Section 125. **Real estate.** An insurer may invest in real estate only if used for the purposes or acquired in the manners, and within the limits as follows:

(1) The land and the buildings thereon in which it has its principal office, and such other real estate as shall be requisite for its convenient accommodation in the transaction of its business. Except with the consent of the commissioner, all such investments shall not aggregate more than five percent (5%) of the insurer's assets.

(2) Real estate acquired in satisfaction of loans, mortgages, liens, judgments, decrees or debts previously owing to the insurer in the course of its business.

(3) Real estate acquired in part payment of the consideration on the sale of other real estate owned by it, if such transaction does not increase the insurer's investment in real estate.

(4) Real estate acquired by gift or devise, or through merger, consolidation, or bulk reinsurance of another insurer under this code.

(5) The seller's interest in real property subject to an agreement of purchase or sale, but the sum invested in any such parcel of real estate shall not exceed two-thirds of the market value of such parcel.

(6) Real estate, or any interest therein acquired or held by purchase, lease or otherwise, other than real estate to be used primarily for agricultural, ranch, min-

ing, development of oil or mineral resources, recreational, amusement or club purposes, acquired as an investment for the production of income, or acquired to be improved or developed for such investment purposes pursuant to an existing program therefor. The insurer may hold, improve, develop, maintain, manage, lease, sell, and convey real estate acquired by it under this provision. An insurer shall not, except with the commissioner's consent, have at any one time invested in real estate under this subdivision an amount exceeding five percent (5%) of its assets.

(7) Additional real estate and equipment incident to real estate, if necessary or convenient for the purpose of enhancing the sale or other value of real estate previously acquired or held by the insurer under subdivisions (2), (3), (4), or (6) of this section. Such real estate and equipment shall be included, together with the real estate for the enhancement of which it was acquired, for the purpose of applicable investment limits, and shall be subject to disposal at the same time and under the same conditions as applying to such enhanced real estate under section 126.

(8) Except with the commissioner's consent, all real estate owned by the insurer under this section, except as to seller's interest specified in subdivision (5), shall not at any one time exceed ten percent (10%) of the insurer's assets.

Time limit—disposal of real estate.

Section 126. **Time limit for disposal of real estate.** (1) Except as stated in subsection (3) of this section, the insurer shall dispose of real estate acquired under subdivision (1) of section 125 within five (5) years after it has ceased to be necessary for the convenient accommodation of the insurer in the transaction of its business.

(2) Except as stated in subsection (3) of this section, the insurer shall dispose of real estate acquired under subdivisions (2), (3), and (4) of section 125 within five (5) years after the date of acquisition.

(3) Upon proof satisfactory to him that the interests of the insurer will suffer materially by the forced sale thereof, the commissioner may by order grant a reasonable extension of the period, as specified in such order,

within which the insurer shall dispose of any particular parcel of such real estate; unless the insurer elects to hold such real estate as an investment for income purposes under subdivision (6) of section 125, in which event thereafter such real estate shall be deemed to have been acquired at a cost equal to its book value at the time of such election and to be held under, and subject to, the provisions of such subdivision (6).

Time limit—disposal of other ineligible property and securities.

Section 127. **Time limit for disposal of other ineligible property and securities.** Any personal property or securities lawfully acquired by an insurer which it could not otherwise have invested in or loaned its funds upon at the time of such acquisition, shall be disposed of within three (3) years from date of acquisition unless within such period the security has attained to the standard of eligibility; except, that any security or personal property acquired under any agreement of bulk reinsurance, merger, or consolidation, may be retained for a longer period if so provided in the plan for such reinsurance, merger, or consolidation as approved by the commissioner under chapter 22 of this code. Upon application by the insurer and proof that forced sale of any such property or security would materially injure the interests of the insurer, the commissioner may extend the disposal period for an additional reasonable time.

Effect, penalty, for failure to dispose within time limit.

Section 128. **Failure to dispose of real estate, property, or securities—Effect, penalty.** (1) Any real estate, personal property, or securities lawfully acquired and held by an insurer after expiration of the period for disposal thereof or any extension of such period granted by the commissioner, as provided in sections 126 or 127, shall not be allowed as an asset of the insurer.

(2) The insurer shall forthwith dispose of any ineligible investment unlawfully acquired by it, and the commissioner may, in his discretion, suspend or revoke the insurer's certificate of authority if the insurer fails to dispose of the investment within such reasonable time as the commissioner may, by his order, specify.

Special investments by title insurer.

Section 129. **Special investments by title insurer.** (1) In addition to other investments eligible under this chapter, a title insurer may invest and have invested an amount not exceeding fifty percent (50%) of its paid-in capital stock in its abstract plant and equipment, and, with the commissioner's consent, in stock of abstract companies. If the insurer transacts kinds of insurance in addition to title insurance, for the purposes of this section its paid-in capital stock shall be pro rated between title insurance and such other insurances upon the basis of the reserves maintained by the insurer for the various kinds of insurance; but the capital so assigned to title insurance shall in no event be less than one hundred thousand dollars ($100,000).

(2) Investments authorized by this section shall not be credited against the insurer's required unearned premium or guaranty fund reserve provided for under section 91.

(3) Any such abstract plant and equipment shall not be so allowed as an asset in any determination of the insurer's financial condition at a value greater than actual cost.

Prohibited investments and investment underwriting.

Section 130. **Prohibited investments and investment underwriting.** (1) In addition to investments excluded pursuant to other provisions of this code, an insurer shall not invest in or lend its funds upon the security of:

(a) Issued shares of its own capital stock, except for the purpose of mutualization under section 460.

(b) Except with the advance consent of the commissioner, securities issued by any corporation or enterprise the controlling interest of which is, or after such acquisition by the insurer will be held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, parent corporation, subsidiaries or controlling stockholders. Investments in subsidiaries under section 115 shall not be subject to this provision.

(c) Any note or other evidence of indebtedness of any director, officer, or controlling stockholders of the insurer, except as to policy loans authorized under section 118.

(2) No insurer shall underwrite or participate in the

underwriting of an offering of securities or property by any other person.

Investments of foreign insurers.

Section 131. **Investments of foreign insurers.** The investment port-folio of a foreign insurer shall be as permitted by the laws of its domicile but shall be of a quality substantially as high as that required under this chapter for similar funds of like domestic insurers. For the purposes of this provision, the domicile of an alien insurer, other than a life insurer formed under the laws of Canada, shall be deemed to be that state in which it maintains its principal deposit.

CHAPTER 7 — ADMINISTRATION OF DEPOSITS

Authorized deposits of insurers.

Section 132. **Authorized deposits of insurers.** The following deposits of insurers when made through the commissioner shall be accepted and held, and shall be subject to the provisions of this chapter.

(1) Deposits required under this code for authority to transact insurance in this state.

(2) Deposits of domestic insurers when made pursuant to the laws of other states, provinces, and countries as requirement for authority to transact insurance in such state, province, or country.

(3) Deposits of reserves made by domestic life insurers under section 93.

(4) Deposits in such additional amounts as are permitted to be made under section 141.

Purposes of deposits.

Section 133. **Purpose of deposit.** Such deposits shall be held for purposes as follows:

(1) Deposits made in this state under section 54 of this code shall be held for the purpose stated in such section.

(2) A deposit made in this state by a domestic insurer transacting insurance in another state, province, or country, and as required by the laws of such other state, province, or country, shall be held for the protection of all the insurer's policyholders or all its policyholders and creditors or for such other purpose or purposes as may be specified pursuant to such laws.

(3) Deposits of reserves made by domestic life insurers under section 93 shall be held for the common benefit of all the holders of its life insurance policies and annuity contracts.

(4) Deposits required pursuant to the retaliatory law, section 71, shall be held for such purposes as is required by such law, and as specified by the commissioner's order requiring such deposit to be made.

Securities eligible for deposit.

Section 134. **Securities eligible for deposit.** (1) All such deposits required under section 54 for authority to transact insurance in this state shall consist of certificates of deposit, or any combination of securities of the kinds described in the following sections of this code: Sections 103 (United States and Canadian government obligations), 105 (state, county, municipal, and school obligations), and 106 (revenue bonds).

(2) All other deposits of a domestic insurer held in this state pursuant to the laws of another state, province, or country shall be comprised of assets of the kinds described in subsection (1), above, and of such additional kind or kinds of securities required or permitted by the laws of such state, province, or country except common stocks, mortgages of any kind and real estate.

(3) Deposits of the reserves of a domestic life insurer shall consist of securities and assets as provided under section 93.

(4) Deposits of foreign insurers made in this state under the retaliatory law, section 71, shall consist of such assets as are required by the commissioner pursuant to such law.

Authorized depositaries or custodians.

Section 135. **Depositary or custodian.** (1) Deposits made in this state under this code shall be made through the office of the commissioner in safe deposit or under custodial arrangements as required or approved by the commissioner consistent with the purposes of such deposit, with an established safe deposit institution, bank, or trust company located in the City of Helena, State of Montana, selected by the insurer with the commissioner's approval.

(2) No safe deposit shall be used for any such deposit

unless the box or compartment in which are kept the assets and securities comprising the deposit requires two separate and distinctly differing keys or one key and a combination (in the case of a box having a combination lock) to open the same. One of such keys or the combination shall at all times be kept by the commissioner, and the other key or the combination shall at all times be kept by the insurer. Such box or compartment shall not at any time be opened or remain open except through the joint action and in the presence of both the commissioner and a duly authorized officer or representative of the insurer.

(3) Where of convenience to the insurer in the buying, selling, and exchange of securities comprising its deposit, and in the collection of interest and other income currently accruing thereon, the insurer may with the commissioner's written approval in advance, deposit certain of such securities under custodial arrangements with an established bank or trust company located outside this state, so long as receipts representing all such securities are issued by such custodian bank or trust company and are held in safe deposit or custody subject to the requirements of subsections (1) and (2) of this section.

(4) The form and terms of all such depositary or custodial agreements shall be as prescribed or approved by the commissioner consistent with the applicable provisions of this code.

(5) The compensation and expenses of the depositary or custodian shall be borne by the insurer.

Record of deposits—duties of commissioner.

Section 136. **Record of deposits; liability of commissioner and state.** (1) The commissioner shall give to the depositing insurer vouchers as to all assets and securities deposited by it in this state through the commissioner as provided in this code.

(2) The commissioner shall keep a record of the assets and securities comprising each deposit, showing as far as practical the amount and market value of each item, and all his transactions relative thereto.

Non-liability of commissioner and state for safekeeping.

Section 137. **Responsibility for safekeeping.** The commissioner and the State of Montana shall have no liability as to the safekeeping of any such deposit by the depositary or custodian thereof.

Assignment, conveyance of assets or securities.

Section 138. **Assignment, conveyance of assets or securities.** All securities not negotiable by delivery and deposited under this code shall be duly assigned to the commissioner and his successors in office. In the case of securities held under custodial arrangements outside this state pursuant to section 135 (3), the custodian's receipt for such securities shall be so delivered, if negotiable, or assigned to the commissioner if thereby legal title to such securities is vested in the commissioner. All other assets so deposited the insurer shall transfer or convey to the commissioner and his successors in office. Upon release to the insurer of any such asset or security the commissioner shall reassign or transfer or reconvey the same to the insurer.

Appraisal prior to deposits.

Section 139. **Appraisal.** The commissioner may, in his discretion, prior to acceptance for deposit of any particular asset or security, or at any time thereafter while so deposited, have the same appraised or valued by competent appraisers. The reasonable costs of any such appraisal or valuation shall be borne by the insurer.

Rights of insurer during solvency.

Section 140. **Rights of insurer during solvency.** So long as the insurer remains solvent and is in compliance with this code it may:

(1) Demand, receive, sue for and recover the income from the assets or securities deposited;

(2) Exchange and substitute for the deposited assets or securities, or any part thereof, other eligible assets or securities of equivalent or greater value; and

(3) At any reasonable time inspect any such deposit.

Excess deposits for absorbing fluctuations.

Section 141. **Excess deposits.** An insurer may so deposit and have on deposit assets or securities in an amount exceeding its deposit required or otherwise permitted under this code by not more than twenty percent (20%) of such required or permitted deposit or $50,000, whichever is the larger amount, for the purpose of absorbing fluctuations in the value of assets and securities deposited, and to facilitate the exchange and substitution of such assets and securities. During the solvency of the insurer any such excess shall be released to the insurer upon its request. During the insolvency of the insurer such excess deposit shall be released only as provided in section 144 (4).

No levy on deposits allowed.

Section 142. **Levy upon deposit.** No judgment creditor or other claimant of an insurer shall have the right to levy upon any of the assets or securities held in this state as a deposit for the protection of the insurer's policyholders or policyholders and creditors. As to deposits pursuant to the retaliatory law, section 71, levy thereupon shall be permitted if so provided in the commissioner's order under which the deposit is made.

In event of deficiency of deposit.

Section 143. **Deficiency of deposit.** If for any reason the market value of assets and securities of an insurer held on deposit in this state, or in another state under custodial arrangements authorized by section 135 (3), falls below the amount required under this code to be so held, the insurer shall promptly deposit other or additional assets or securities eligible for deposit under this chapter and in amount sufficient to cure such deficiency. If the insurer has failed to cure the deficiency within twenty (20) days after receipt of notice thereof by registered mail from the commissioner, the commissioner shall forthwith revoke the insurer's certificate of authority.

Duration of deposits.

Section 144. **Duration and release of deposit.** (1) Every deposit made in this state by an insurer pursuant to this code, including assets and securities held in another state under custodial arrangements permitted by section 135 (3), shall be held as long as there is outstanding any liability of the insurer as to which the deposit was so required; or, if a deposit required under the retaliatory law, section 71, the deposit shall be held for so long as the basis of such retaliation exists.

Release of deposits.

(2) Upon the request of a domestic insurer, the commissioner shall return to the insurer the whole or any portion of the assets and securities of the insurer held on deposit when the commissioner is satisfied that the assets and securities so to be returned are subject to no liability and are not required to be longer held by any provision of law or purposes of the original deposit. If

the insurer has reinsured all its outstanding risks in another insurer or insurers authorized to transact insurance in this state then the commissioner shall deliver such assets and securities to such insurer or insurers so assuming such risks, upon (a) written notice to him by such domestic insurer that such assets and securities have been duly assigned, transferred and set over to such reinsuring insurer or insurers, which notice shall be accompanied by a duly verified copy of such assignment, transfer, or conveyance, and (b) in the case of deposits of the reserves of domestic life insurers under section 93, proof satisfactory to the commissioner that the reinsuring insurer or insurers has deposited or will deposit, and will maintain on deposit in public custody through the insurance supervisory official of its state of domicile, assets and securities of like quality in amount not less than the reserves then and thereafter of the policies and contracts so reinsured, in addition to any other deposit of such insurer required or permitted by law, and, unless the insurer is required so to deposit and maintain on deposit all of its reserves, that such deposit of such reserves will be so deposited and held on deposit for the special benefit and protection of the holders of the life insurance policies and annuity contracts so reinsured.

Return to foreign insurer.

(3) The commissioner shall return to a foreign insurer any deposit made in this state by such insurer, when such insurer has ceased transacting insurance in this state, or in the United States, and the insurer is not subject to any liability in this state on account of which the deposit was held.

Release in event of delinquency proceedings.

(4) If the insurer is subject to delinquency proceedings, as defined in chapter 26 of this code, upon the order of a court of competent jurisdiction the commissioner shall yield the assets and securities held on deposit to the receiver, conservator, rehabilitator, or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

Order of commissioner required.

(5) No release of deposited assets shall be made except upon application to and the written order of the commissioner. The commissioner shall have no personal liability for any release of any such deposit or part thereof so made by him in good faith.

CHAPTER 8 — AGENTS, SOLICITORS AND ADJUSTERS

Section 145. **Scope of chapter.** This chapter shall apply as to all stock, mutual and reciprocal insurers and as to all kinds of insurance and annuities.

"Agent" defined.

Section 146. **''Agent'' defined.** An ''agent'' is an individual, firm or corporation appointed by an insurer to solicit applications for insurance or annuities or to negotiate insurance on its behalf, and if authorized to do so by the insurer, to effectuate and countersign insurance contracts.

"Life insurance agent" defined.

Section 147. **''Life insurance agent'' defined.** For the purposes of this chapter, ''life insurance agent'' includes also an agent of a life insurer who is or proposes to be licensed as to the same insurer for disability insurance in addition to life insurance and annuities. Unless licensed as a life insurance agent as required by section 151, no person shall in this state solicit life insurance or annuities or procure applications therefor, or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counselling or advising or giving opinions (other than as a licensed attorney at law) relative to such insurance or annuities, for fee, commission or other compensation, other than as a salaried bona fide full-time employee so counselling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer, or with respect to the insurance interests of employees of such employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of such employees.

"Solicitor" defined.

Section 148. **''Solicitor'' defined.** A ''solicitor'' is an individual appointed and authorized by an agent to solicit applications for insurance, other than life insurance or disability insurance, as a representative of such agent, and to collect premiums thereon when expressly so authorized by the agent.

Section 149. **Exceptions and exemptions from definition of agent and solicitor.** The definitions of agent and solicitor contained in sections 146 through 148 shall not be deemed to include:

Exceptions and exemptions from definition of agent and solicitor.

(1) Individuals employed and used by agents for the performance of clerical, stenographic and similar office duties; incidental taking of an application for insurance from time to time in the office of the employing agent shall not constitute such an employee as an agent or solicitor if the employee's compensation is not contingent upon or related to the volume of such applications, insurance or premiums.

(2) The supervising general, state or special agent, or other supervising officer or supervising salaried employee of an insurer, who solicits only with or in conjunction with duly licensed agents of the insurer.

(3) The attorney-in-fact of a reciprocal insurer, or the salaried traveling representative of a reciprocal or mutual insurer not compensated on a commission basis.

(4) A person who secures and forwards information for the purpose of an existing group insurance contract or for enrolling individuals under an existing group insurance contract or issuing certificates thereunder where no commission is paid for such services.

"Adjuster" defined.

Section 150. **''Adjuster'' defined.** (1) An ''adjuster'' is a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of such an independent contractor, or for fee or commission, investigates and negotiates settlement of claims arising under insurance contracts.

Exceptions.

(2) A licensed attorney at law who is qualified to practice law in this state, or a salaried employee of an insurer or of a managing general agent, or a licensed agent who adjusts or assists in adjustment of losses arising under policies issued by the insurer represented by such agent, is not deemed to be an adjuster for the purposes of this chapter.

Section 151. License required, agents and solicitors; forms.

License required.

(1) No person shall in this state act as or hold himself out to be an agent or solicitor, as to subjects of insurance

located, resident or to be performed in this state, unless then licensed as such agent or solicitor under this chapter.

(2) No agent or solicitor shall solicit or take application for, procure, or place for others any kind of insurance as to which he is not then licensed.

(3) No agent shall place any business (other than coverage of his own risks) with any insurer as to which he does not then hold an appointment or license as agent under this chapter, except as provided in section 170 as to life or disability insurance agents.

Commission shall prescribe forms.

(4) The commissioner shall prescribe and furnish forms required in connection with application for, issuance, continuation or termination of licenses and appointments.

Qualifications of agents and solicitors except life insurance agents.

Section 152. **General qualifications, agents and solicitors—Other than life insurance agents.** (1) For the protection of the people of this state the commissioner shall not issue, continue, or permit to exist any agent or solicitor license as to insurance other than life or disability, except in compliance with this chapter, or as to any individual not qualified therefor as follows:

(a) Must be twenty-one (21) years of age or more, or, if for a solicitor's license, must be at least eighteen (18) years of age.

(b) Must be a resident in and of this state.

(c) If for an agent's license, must have been appointed as agent by an authorized insurer, subject to issuance of the license.

(d) If for a solicitor's license, must have been appointed as solicitor by a licensed agent, subject to issuance of the license, and intend to make and make the soliciting of insurance a principal vocation.

(e) Must be competent, trustworthy and of good reputation.

(f) Must have had experience or training or be otherwise qualified in the kind or kinds of insurance as to which he is to be licensed, and be reasonably familiar with the provisions of this code which govern his operations as an insurance agent or solicitor.

(g) Must pass any written examination for the license required under this chapter.

(h) Must intend in good faith to act as, and must act as and hold himself out to be an agent or solicitor in the active solicitation and negotiation of insurance with the general public; and not seek or use the license for the negotiation or effectuation of insurance on his own property or interests or those of his relatives or of his employer. If during any calendar year more than thirty-five percent (35%) of the commissions earned or prospectively to be earned by such an applicant or licensee have been, or probably will be, derived from insurance of his own property or interests and those of his relatives and of his employer, the license will be deemed to have been used or to be intended to be used in violation of this subdivision (h).

(2) In determining the qualifications as to competence, training, experience and knowledge of the provisions of this code governing his operations as an insurance agent or solicitor, as provided for in subsection (1) above, of applicant agents or solicitors proposing to represent as such only insurers who confine their business in this state substantially to the insuring of the property, interests and risks of farmers, the commissioner shall relate such qualifications only to the kinds of insurance policies which the applicant will handle as such a licensee.

Qualifications of life or disability insurance agents.

Section 153. **General qualification for license as life or disability insurance agent.** For the protection of the people of this state the commissioner shall not issue, continue, or permit to exist any agent license as to life or disability insurance except in compliance with this chapter or as to any individual not qualified therefor as follows:

(1) Must be eighteen (18) years of age, or more.

(2) Must be a resident in and of this state; or of another state, if by reciprocal arrangements made by the commissioner with such other state similar privileges therein are granted to residents of this state. As a part of any such arrangements the commissioner shall be constituted as the attorney in fact of any such nonresident

for acceptance of service of process in any action or proceeding in this state arising out of or related to the transactions of the licensee in this state, with the same effect as though served upon the licensee personally in this state, and any license issued to or accepted by any such nonresident shall be subject to this condition.

(3) Must have been appointed as such an agent by an authorized insurer, subject to issuance of the license.

(4) Must be competent, trustworthy and of good reputation.

(5) Must have had experience or training or be otherwise adequately qualified in the kind or kinds of insurance as to which he is to be licensed, be reasonably familiar with the provisions of this code governing his operations as such an agent, and with the provisions of the policies and contracts he proposes to offer under the license.

(6) Must pass any written examination for the license required under this chapter.

(7) Must not use or intend to use the license principally for the writing of insurance on the lives or interests of himself or his relatives to the second degree.

(8) Must not be a funeral director, undertaker or mortician, or an officer, employee or representative thereof.

Licensing of firms and corporations as agents.

Section 154. **Licensing of firms and corporations.** (1) A firm or corporation shall be licensed only as an agent. If a firm, each general partner and each other individual to act for the firm under the license, and if a corporation, each individual to act for the corporation under the license, shall be named in the license and shall qualify therefor as though an individual licensee. The commissioner shall charge and the licensee shall pay a full additional license fee as to each respective individual so named in such license in excess of two.

Requirements of firm or corporation.

(2) A license shall not be issued to a firm or corporation unless organized under the laws of this state and maintaining its principal place of business in this state, and unless the transaction of business under the license

is within the purposes stated in the firm's partnership agreement or the corporation's articles.

(3) The licensee shall promptly notify the commissioner of all changes among its members, directors, and officers and of any other individual designated in the license. **Duty to notify of changes.**

Section 155. **Licensing of agents' association.** (1) The commissioner may license as an agent as to kinds of insurance other than life and disability, any association of licensed Montana insurance agents, whether or not incorporated, and formed and existing for substantial purposes other than as to such license. **Licensing of agents, associations.**

(2) The license shall be used solely for the purpose of enabling any such association to place, as agent, insurance of the properties, interests and risks of the State of Montana and of other public agencies, bodies and institutions, and to receive the customary commission thereon. **Purpose of license.**

(3) Application for the license shall be made in the name of the association by its duly constituted president and secretary, and the license may be issued to the association in its name alone. **Application.**

(4) The license powers may be exercised by such agents as may be appointed from time to time for the purpose of the association's board of trustees. The association shall forthwith file the names of such appointees with the commissioner. The names of such appointees need not appear in the license. **Powers.**

(5) The fee for such license shall be the same as for the license of an individual agent. **Fees.**

(6) Under the license the association may place insurance with any insurer represented as agent by any member of the association, and without requiring that the association have an appointment as agent by any such insurer; otherwise, the license shall be subject to the same requirements and prohibitions as apply to individual agent licenses. **Placing of insurance.**

(7) The commissioner may, after a hearing with notice thereof to the association only (and without notice to the individual officers or members of the association), **Revocation.**

revoke the license if he finds that continuation thereof is not in the public interest, or for such other applicable grounds as are available under this chapter in the case of individuals licensed as agents.

Application for agent or solicitor license.

Section 156. **Application for license.** (1) Application for an agent or solicitor license shall be made to the commissioner by the applicant, and be signed and sworn to by the applicant before a notary public or other person authorized by law to take acknowledgments of deeds.

Commissioner shall prepare forms.

(2) The commissioner shall designate and prepare forms for application for license which shall require full answers to such questions as may reasonably be necessary to determine the applicant's identity, residence, personal history, business record, experience and training in insurance, purpose for which the license is to be used and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

Kinds of insurance.

(3) If for an agent's license, the application shall state the kinds of insurance proposed to be transacted, and be accompanied by written appointment of the applicant as agent by an authorized insurer, subject to issuance of the license.

Written appointment of solicitor.

(4) If for a solicitor's license, the application shall be accompanied by written appointment of applicant as solicitor by a licensed agent, subject to issuance of the license.

Designation of powers in corporate application.

(5) If the applicant for an agent license is a firm or corporation, the application shall show, in addition, the names of all members, officers and directors, and shall designate each individual who is to exercise the powers to be conferred by the license upon the firm or corporation. Each such individual so designated shall furnish information as to himself, as part of the application, as though for an individual license.

Designation of officers in agents' association application.

(6) If the applicant for an agent license is an agents' association pursuant to section 155, the application shall show the names and residence addresses of the association's officers and trustees.

Other provisions.

(7) If for license as either agent or solicitor, the ap-

plication shall also show whether applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any such license was ever refused, suspended or revoked; whether any insurer, general agent or agent (in the case of a solicitor application) claims applicant to be indebted to it, and if so the details thereof and the defenses, if any, of the applicant thereto; whether applicant ever had an agency contract cancelled, and the facts thereof; and if applicant is a married woman, like information with respect to her husband.

Certificate of insurer required.

(8) The commissioner shall require as part of the application for license the certificate of an officer or representative of the insurer proposed to be represented (in the case of applicants for license as agent), or of the proposed employing agent (in the case of applicants for license as solicitor) as to whether the applicant is known to him, whether the insurer or agent has investigated the character and business record of the applicant and the uses to be made of the license, if granted, and his opinion, based on such investigation, as to applicant's trustworthiness and competence and whether the applicant will use the license principally for the purpose of insuring his own risks or interests and those of his relatives or employer.

Fee must accompany application.

(9) All such applications shall be accompanied by the applicable license fee, appointment of agent fee where applicable, examination fee where required under section 157, all in the respective amounts stated in section 45 (fees and licenses).

Duty of commissioner to examine applicants.

Section 157. **Examination.** (1) After completion and filing of the application for license as required under section 156, the commissioner shall subject each applicant for license as agent or solicitor (unless exempted therefrom under subsection (5) below) to a personal written examination as to his competence to act as such agent or solicitor.

Individuals in firm or corporation.

(2) If the applicant is a firm or corporation, the examination shall be so taken by each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license.

Classifications of insurance.

(3) Examination of an applicant for an agent's license shall cover all of the kinds of insurance for which the applicant has applied to be licensed, as constituted by any one or more of the following classifications:

(a) Life insurance;
(b) Disability insurance;
(c) Property insurance;
(d) Casualty insurance;
(e) Vehicle insurance;
(f) Surety insurance.

"Marine" included in "property."

For the purposes of this provision "marine" insurance shall be deemed to be included in "property" insurance.

(4) Examination of an applicant for a solicitor's license shall cover all the kinds of insurance, other than life, as to which the appointing agent is licensed.

Exceptions.

(5) This section shall not apply to, and no such examination shall be required of:

(a) Any individual lawfully licensed as an agent or solicitor as to the kind or kinds of insurance to be transacted as of or immediately prior to the effective date of this code, and thereafter continuing to be so licensed.

(b) Any applicant for license covering the same kind or kinds of insurance as to which the applicant was licensed in this state, other than under a temporary license, within the twelve (12) months next preceding date of application, unless such previous license was suspended, revoked or continuation thereof refused by the commissioner.

(c) Nonresident applicants for license as life insurance agents under section 153 (2), if such applicant has already taken and successfully passed a similar examination for a similar license in the state of his residence, or is a licensed life insurance agent in such state and become so licensed prior to the time that such an examination was required in such state, and if under the reciprocal arrangements referred to in section 153 (2) a like exemption is granted by such other state as to residents of this state applying for license as life insurance agent in such other state.

(d) All applicants for license as agent for an insurer that confines its business in this state substantially to the insuring of the property, interests and risks of farmers, if exempted from examination by the commissioner, in his discretion, upon written request of the insurer.

(e) Transportation ticket agents of common carriers applying for license to solicit and sell only:

(i) Accident insurance ticket policies, or

(ii) Insurance of personal effects while being carried as baggage on such common carrier, as incidental to their duties as such transportation ticket agents.

(f) Agents' associations applying for license under section 155.

(g) Title insurance agents.

Duty of commissioner to conduct examinations.

Section 158. **Conduct of examinations.** (1) The commissioner shall make any examination required under section 157 available to applicants with reasonable frequency, and at place in this state reasonably accessible to such applicants. The commissioner shall make any such examination available at his offices at Helena, Montana, on each business day.

(2) All the kinds of insurance or class thereof, as referred to in section 157 (3), which the applicant proposes to transact under the license applied for, shall be included in the same examination.

(3) The commissioner shall give, conduct and grade all examinations in a fair and impartial manner, and without unfair discrimination as between individuals examined.

(4) The commissioner may require a reasonable waiting period before re-examination of an applicant who has failed to pass a previous examination covering the same kind or kinds of insurance.

Procedure for issuing licenses.

Section 159. **Issuance of license, and contents.** (1) The commissioner shall promptly issue licenses applied for to persons qualified therefor in accordance with this chapter.

(2) The license shall state the name and address of the licensee, date of issue, general conditions relative to expiration or termination, kind or kinds of insurance covered and the other conditions of the license.

(3) If the license is as agent for life and/or disability insurance only, the license shall state the name of the insurer to be so represented; if the license is as agent for any other kind or kinds of insurance it shall not state the name of any insurer to be so represented.

(4) If the licensee agent is a firm or corporation the license shall also state the name of each individual authorized thereunder to exercise the license powers.

(5) If the licensee is a solicitor the license shall state the name and address of the agent to be represented.

Number of licenses required.

Section 160. **Number of licenses, agents.** (1) An agent licensed as to kinds of insurance other than life and/or disability insurance only, is required to have but one license covering the kinds of insurance to be transacted by him regardless of the number of insurers by whom he is appointed as agent, and the same license may include both life insurance and disability insurance.

(2) As to agents licensed as to life and/or disability insurance only, the agent shall have one license for each such insurer to be represented as agent.

(3) A life insurance agent may concurrently be licensed as to an additional life insurer or insurers upon due application, appointment and qualification. Upon request therefor filed with the commissioner by the insurer, the commissioner shall notify a life insurer thereof whenever any of its agents licensed as such in this state has been likewise licensed as to another life insurer.

Appointment of agents.

Section 161. **Appointment of agents; continuation and termination.** (1) Each insurer appointing an agent in this state as to property or casualty or surety insurance shall file with the commissioner the appointment, specifying the kinds of insurance to be transacted by the agent for the insurer, and pay the fee therefor as stated in section 45. If the appointment includes casualty insurance, the agent may be appointed by the same insurer also as to disability insurance without requiring an additional appointment or appointment fee.

Continuation of appointment.

(2) Subject to annual continuation by the insurer not later than May 31, each such appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless written notice of earlier termination of the appointment is filed with the commissioner by the insurer or agent.

Annual lists to be filed.

(3) Annually, prior to May 1, each insurer shall file with the commissioner an alphabetical list in duplicate of the names and addresses of all its agents whose appointments in this state are to remain in effect, accompanied by payment of the annual continuation of appointment fee as provided in section 45. At the same time the insurer shall also file with the commissioner an alphabetical list in duplicate of the names and addresses of all its agents whose appointments in this state are not to remain in effect.

Termination by insurer—notice.

(4) Subject to the agent's contract rights, an insurer may terminate an agency appointment at any time. The insurer shall promptly give written notice of such termination to the commissioner, and to the agent where reasonably possible. The commissioner may require of the insurer reasonable proof that the insurer has given such notice to the agent.

Statement accompanying notice of termination.

(5) As part of the notice of termination given the commissioner, the insurer shall file with the commissioner a statement of the facts relative to the termination and the cause thereof. Any information or statement contained in the notice of termination shall be privileged and shall not be admissible as evidence in any action or proceeding against the insurer or any representative thereof by or in behalf of any person affected by such termination.

Rights of agents after termination.

Section 162. **Rights of agent following termination of appointment.** (1) Following termination of any such agency appointment as to property, casualty or surety insurance, and subject to the terms of any agreement between the agent and the insurer, the agent may continue to service, and receive from the insurer commissions or other compensation relative to, business written by him for the insurer during the existence of the appointment.

(2) This section does not apply as to agents of direct writing insurers or agents or insurers between whom the relationship of employer and employee exists.

Temporary agent licenses.

Section 163. **Temporary agent licenses.** (1) The commissioner may issue a temporary license as agent to or with respect to an individual qualified therefor only as to age, residence and trustworthiness, and without requiring such individual to take an examination, in the following cases:

In event of death of agent.

(a) To the surviving spouse or next of kin or to the administrator or executor, or the employee of such administrator or executor, of a licensed agent becoming deceased.

In event of disablement of agent.

(b) To the spouse, next of kin, employee or legal guardian of a licensed agent disabled by sickness, injury or insanity.

To employee of firm or corporation agent.

(c) To an employee of a firm, or officer or employee of a corporation, licensed as agent, upon the death or disability of an individual designated in the license to exercise the powers thereof.

To designee of agent in armed forces.

(d) To the designee of a licensed agent entering upon active service in the armed forces of the United States of America.

Pending examination.

(e) Upon request of the insurer, to an applicant for license as a life insurance agent, pending the taking of any examination required of the applicant by the commissioner under section 157, if the applicant is duly enrolled in and is actively pursuing an adequate course of instruction, as provided by or through the insurer, in preparation for such examination. Such license shall be for a period of not over ninety (90) days, or until the applicant has had a reasonable opportunity to take such examination and be informed by the commissioner as to the results thereof, whichever is the shorter period, but subject to extension by the commissioner as provided in subsection (3) below.

Application.

(2) The temporary license shall be issued upon application filed with the commissioner in such form and

containing such information as the commissioner may reasonably require, and upon payment of the applicable fee as stated in section 45.

Period of temporary license.

(3) The temporary license shall be for a period of not over ninety (90) days, subject to extension by the commissioner in his discretion for an additional period of not more than ninety (90) days; except, that such a license issued pursuant to subdivision (a) above, may be continued without payment of additional fee until the executor or administrator disposes of the insurance business, but not to exceed a period of fifteen (15) months. Temporary license issued to the next of kin under such subdivision (a) shall not be extended for an additional term or terms after appointment and qualification of such an administrator or executor.

Fee may be applied on permanent license fee.

(4) The fee paid for the temporary license may be applied upon the fee required for any permanent license issued to the licensee upon or prior to expiration of the temporary license and covering the same kinds of insurance.

Limitations of temporary license.

Section 164. **Limitations and rights under temporary license.**

(1) The commissioner shall not issue more than one temporary license, to or with respect to the same individual to be so licensed, within any twelve-month period.

(2) The temporary license may cover the same kinds of insurance for which the agent thereby being replaced was licensed.

(3) As to a temporary agent's license issued on account of the death or disability of an agent, the licensee may so represent all of the insurers last represented by such deceased or disabled agent and without the making of new appointment of such licensee by such insurers; but the licensee shall not be appointed as to any additional insurer or additional kind of insurance under such a temporary license. This provision shall not be deemed to prohibit termination of its appointment by any insurer.

Rights under temporary license.

(4) A temporary licensee shall have the same license powers and duties as under a permanent license.

Requirements for solicitor's license.

Section 165. **Special requirements as to solicitors.** (1) A solicitor shall not be appointed or licensed as to more than one agent.

(2) The solicitor's license shall cover all the kinds of insurance, other than life and disability insurance, for which the appointing agent is licensed; except, that the solicitor's license shall also cover disability insurance where written by a casualty, property, or surety insurer represented by the agent.

(3) A solicitor shall not concurrently be licensed as agent except as to life or disability insurance.

(4) A solicitor shall not have authority to bind risks or countersign policies.

(5) The transactions of a solicitor under his license shall be in the name of the agent by whom appointed, and such agent shall be responsible for the acts or omissions of the solicitor within the scope of his appointment.

(6) The solicitor shall maintain his office with that of the appointing agent, and records of his transactions under the license shall be maintained as a part of the records of such agent.

(7) The solicitor's license shall remain in the custody of the agent by whom appointed. Upon termination of the appointment, the agent shall give written notice thereof to the commissioner and deliver the license to the commissioner for cancellation.

Insurance vending machines permitted.

Section 166. **Insurance vending machines.** (1) A licensed resident agent may solicit applications for and issue policies of personal travel accident insurance by means of mechanical vending machines supervised by him and placed at airports, railroad stations, bus stations and similar places where transportation tickets are sold and of convenience to the traveling public, if the commissioner finds:

Requirements of policy.

(a) That the policy to be sold provides reasonable coverage and benefits, is reasonably suited for sale and issuance through vending machines, and that use of such a machine therefor in a particular proposed location would be of material convenience to the public;

(b) That the type of vending machine proposed to be used is reasonably suitable and practical for the purpose; **Suitable machine.**

(c) That reasonable means are provided for informing the prospective purchaser of any such policy of the coverage and restrictions of the policy; and **Information.**

(d) That reasonable means are provided for refund to the applicant or prospective applicant of money inserted in defective machines and for which no insurance, or a less amount than that paid for, is actually received. **Refund.**

(2) As to each such machine to be so used, the commissioner shall issue to the agent a special vending machine license. The license shall specify the name and address of the insurer and agent, the name of the policy to be so sold, the serial number of the machine, and the place where the machine is to be in operation. The license shall be subject to annual continuation, to expiration, suspension or revocation coincidentally with that of the agent. The commissioner shall also revoke the license as to any machine as to which he finds that the conditions upon which the machine was licensed, as referred to in subsection (1), no longer exist. The license fee shall be as stated in section 45 for each license year or part thereof for each respective vending machine. Proof of the existence of a subsisting license shall be displayed on or about each such vending machine in use in such manner as the commissioner may reasonably require. **Special license.**

Section 167. Place of business—Display of license—Records.

(1) Every agent shall have and maintain in this state a place of business accessible to the public. Such place of business shall be that wherein the licensee principally conducts transactions under his license. The address of such place shall appear upon the license, and the licensee shall promptly notify the commissioner of any change thereof. Nothing in this section shall be deemed to prohibit maintenance of such place of business in the licensee's place of residence in this state. **Place of business required.**

(2) The licenses of the licensee, and the licenses of solicitors appointed by and representing the licensee, **Display of licenses.**

shall be conspicuously displayed in such place of business in a part thereof customarily open to the public.

Records required.

(3) The agent shall keep at his place of business complete records pertaining to transactions under his license and the licenses of his solicitors, for a period of at least three (3) years after completion of the respective such transactions.

Exception.

(4) This section shall not apply as to life and disability insurances.

Premiums received are trust fund.

Section 168. **Reporting and accounting for premiums.** (1) All premiums or return premiums received by an agent or solicitor shall be trust funds so received by the licensee in a fiduciary capacity, and the agent or solicitor shall in the applicable regular course of business account for and pay the same to the insured, insurer or agent entitled thereto. If the licensee establishes a separate deposit for funds so belonging to others in order to avoid a commingling of such fiduciary funds with his own funds, he may deposit and commingle in the same such separate deposit all such funds belonging to others so long as the amount of such deposit so held for each respective other person is reasonably ascertainable from the records and accounts of the licensee.

Penalty for misappropriation.

(2) Any agent or solicitor who, not being lawfully entitled thereto, diverts or appropriates such funds or any portion thereof to his own use, shall upon conviction be guilty of larceny and shall be punished as provided by law.

Exchange of business permitted between licensed agents.

Section 169. **Exchange of business; sharing commissions.** (1) An agent may, occasionally only, place an insurance coverage with an insurer as to which he is not then licensed or appointed as an agent, and the insurer shall accept such business, only when placed through a licensed agent, resident in this state, of the insurer. Both agents involved in such an exchange of business must be licensed as to all of the kinds of insurance represented by the coverage so placed.

Sharing commissions.

(2) The agents involved in a lawful exchange of business under subsection (1) above may divide between them the commission or compensation payable on account of such coverage.

(3) No agent or solicitor shall directly or indirectly share his commissions or other compensation received or to be received by him on account of a transaction under his license with any person not also licensed under this chapter as to the same kind or kinds of insurance involved in such transactions, except as provided in section 69 (policies originating outside state, etc.). This provision shall not affect payment of the regular salaries due employees of the licensee, or the distribution in regular course of business of compensation and profits among members or stockholders if the licensee is a firm or corporation, or use of funds for family or personal purposes.

Sharing with unlicensed person prohibited.

(4) This section does not apply as to those transactions with surplus lines agents which are lawful under section 190 nor as to life or disability insurance placed as provided in section 170.

Exception.

Section 170. **Life or disability agent may place excess or rejected business.** A life or disability insurance agent may from time to time place excess or rejected risks in any other life or disability insurer authorized to transact insurance in this state, with the knowledge and approval of the insurer or insurers as to which the agent is so licensed, and may receive a commission thereon without being required to have a license as to such other insurer.

Life agent may place excess or rejected business.

Section 171. **Adjuster's license; qualifications; catastrophe adjustments.** (1) No person shall in this state act as or hold himself out to be an adjuster unless then licensed therefor under this chapter. Application for license shall be made to the commissioner according to forms as prescribed and furnished by him. The commissioner shall issue the license as to individuals qualified therefor upon payment of the license fee stated in section 45.

Adjuster's license required.

(2) To be licensed as an adjuster the applicant must be qualified therefor as follows:

Qualifications of adjuster.

(a) Must be an individual twenty-one (21) years of age or more.

(b) Must be a resident in and of Montana, or resident of another state which will permit residents of Montana regularly to act as adjusters in such other state.

(c) Must be a full-time salaried employee of a licensed adjuster, or a graduate of a recognized law school, or must have had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent reasonably to make him competent to fulfill the responsibilities of an adjuster.

(d) Must be of good character and reputation.

Office.

(e) Must have and maintain in this state an office accessible to the public and keep therein the usual and customary records pertaining to transactions under the license. This provision shall not be deemed to prohibit maintenance of such office in the home of the licensee.

Firm or corporation.

(3) A firm or corporation, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the license powers is separately licensed, or is named in the firm or corporation license and is qualified as for an individual license as adjuster. An additional full license fee shall be paid as to each individual in excess of one so named in the firm or corporation license to exercise its powers.

Exception in event of catastrophe.

(4) Except, that no such adjuster's license or qualifications shall be required as to any adjuster who is sent into this state by and on behalf of an insurer or adjusting firm or corporation for the purpose of investigating or making adjustments of a particular loss under an insurance policy, or for the adjustment of a series of losses resulting from a catastrophe common to all such losses.

Section 172. **Continuance, expiration of licenses.**

Continuation of solicitor and adjuster licenses.

(1) All solicitor and adjuster licenses issued under this chapter, and all agent licenses as to life and/or disability insurance only, shall continue in force until expired, suspended, revoked or terminated, but subject to payment to the commissioner annually on or before May 1 of the applicable continuation fee as stated in section 45, accompanied by written request for such continuation. Such request for continuation as to agent licenses

Form of annual request for continuation.

Fees must accompany request.

for life insurance and/or disability insurance only, shall be made by the insurer in the form of an alphabetical list in duplicate of the names and addresses of its agents whose licenses are to be continued in this state, accompanied by payment of the annual continuation fee therefor as provided in section 45. At the same time the insurer shall also file with the commissioner an alphabetical list in duplicate of the names and addresses of all its agents whose licenses in this state are not to remain in effect. Section 161 (5) shall apply as to any licenses so terminated by the insurer. As to a solicitor's license, such request shall be signed by the agent by whom the licensee is employed.

In event of failure to pay.

(2) Any license referred to in subsection (1) as to which such fee and request for continuation is not received by the commissioner as required in such subsection (1) shall be deemed to have expired as at midnight on May 31 next following. Request for continuation of any such license and/or payment of the continuation fee therefor which is received by the commissioner after such May 1 and prior to the next following June 15, may be accepted and effectuated by the commissioner, in his discretion, if accompanied by an annual continuation fee in twice the amount otherwise required.

Termination and reissuance.

(3) The license of an agent as to property or casualty or surety insurance shall continue in force as long as there is in effect as to such agent as shown by the commissioner's records an appointment or appointments, as agent of authorized insurers, covering collectively all of the kinds of insurance included in the agent's license. Upon termination of all of such an agent's agency appointments as to a particular kind of insurance, and failure to secure and file with the commissioner a new appointment as to such kind of insurance within ninety (90) days thereafter, the agent's license shall automatically thereupon expire and terminate as to such kind of insurance and the licensee shall promptly deliver his license to the commissioner for reissuance, without fee or charge, as to the kinds of insurance covered by the agent's remaining appointments.

Exception—temporary licenses.

(4) This section shall not apply to temporary licenses issued under section 163.

Section 173. **Suspension, revocation, refusal of license.**

Suspension, revocation, refusal of license for cause.

Hearing on notice.

(1) The commissioner may suspend for not more than twelve (12) months, or may revoke or refuse to continue any license issued under this chapter or any surplus line agent license if, after hearing held on not less than twenty (20) days advance notice by registered mail of such hearing and of the charges against the licensee given as provided in section 30 (3) to the licensee and to the insurers represented (as to an agent) or to the appointing agent (as to a solicitor), he finds that as to the licensee any one or more of the following causes exist:

(a) For any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner.

(b) For obtaining or attempting to obtain any such license through misrepresentation or fraud.

(c) For violation of or noncompliance with any applicable provision of this code, or for wilful violation of any lawful rule, regulation, or order of the commissioner.

(d) For misappropriation or conversion to his own use, or illegal withholding, of moneys or property belonging to policyholders, or insurers, or beneficiaries, or others and received in conduct of business under the license.

(e) Conviction, by final judgment, of a felony involving moral turpitude.

(f) If in the conduct of his affairs under the license the licensee has used fraudulent or dishonest practices, or has shown himself to be incompetent, untrustworthy or a source of injury and loss to the public.

(2) The license of a firm or corporation may be suspended, revoked or refused also for any of such causes as relate to any individual designated in the license to exercise its powers.

Procedure following suspension, revocation.

Section 174. **Procedure following suspension, revocation.**

Notice.

(1) Upon suspension or revocation of any such license the commissioner shall forthwith notify the licensee thereof either in person or by mail addressed to the licensee at his address last of record with the commissioner. Notice by mail shall be deemed effectuated when so mailed. The commissioner shall give like notice to the insurers represented by the agent, in the case of an agent's license, and to the agent by whom appointed in the case of a solicitor's license.

Automatic suspension, revocation of solicitors' licenses.

(2) Suspension or revocation of the license of an agent shall automatically revoke or suspend the licenses of all solicitors appointed by him.

Limitation on issuance of new license.

(3) The commissioner shall not again issue license under this code to or as to any person whose license has been revoked, until after expiration of one year and thereafter not until such person again qualifies therefor in accordance with the applicable provisions of this code. A person whose license has been revoked twice, shall not again be eligible for any license under this code.

Limitation on members of firm or corporation.

(4) If the license of a firm or corporation is so suspended or revoked, no member of such firm, or officer or director of such corporation, shall be licensed or be designated in any license to exercise the powers thereof during the period of such suspension or revocation, unless the commissioner determines upon substantial evidence that such member, officer or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

Section 175. **Return of license.**

Licenses are state property.

Surrender of license.

(1) All licenses issued under this chapter, although issued and delivered to the licensee agent, solicitor or adjuster, shall at all times be the property of the State of Montana. Upon any expiration, termination, suspension or revocation of the license, the licensee or other person having possession or custody of the license shall forthwith deliver it to the commissioner either by personal delivery or by mail.

Affidavit for lost, stolen, destroyed license.

(2) As to any license lost, stolen or destroyed while in the possession of any such licensee or person, the commissioner may accept in lieu of return of the license, the affidavit of the licensee or other person responsible for

or involved in the safekeeping of such license, concerning the facts of such loss, theft or destruction.

CHAPTER 9 —
UNAUTHORIZED INSURERS AND SURPLUS LINES

Section 176. Representing or aiding unauthorized insurer prohibited.

Representing or aiding of unlicensed insurer forbidden.

(1) No person shall in this state directly or indirectly act as agent for, or otherwise represent or aid on behalf of another, any insurer not then authorized to transact insurance in this state, in the solicitation, negotiation or effectuation of insurance or of annuity contracts, inspection of risks, fixing of rates, investigation or adjustment of losses, collection of premiums, or in any other manner in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state.

Exceptions.

(2) This section shall not apply to:

Acceptance of service.

(a) Acceptance of service of process by the commissioner under section 180.

Surplus lines insurers.

(b) Surplus lines insurance, and other transactions as to which certificate of authority is not required of an insurer as stated in section 47.

Penalty.

(3) Any person violating this section shall upon conviction thereof be guilty of a felony.

Suits by unauthorized insurers prohibited.

Section 177. **Suits by unauthorized insurers prohibited.** As to transactions not permitted under section 47 of this code, no unauthorized insurer shall institute or file, or cause to be instituted or filed, any suit, action or proceeding in this state to enforce any right, claim or demand arising out of any insurance transaction in this state, until such insurer has obtained a certificate of authority to transact such insurance in this state.

Title.

Section 178. **Unauthorized insurers process act; title; interpretation.** (1) Sections 178 through 183 constitute and may be cited as the unauthorized insurers process act.

Uniform law.

(2) Such act shall be so interpreted as to effectuate its general purpose to make uniform the law of those states which enact it.

Commissioner deemed appointed agent of unauthorized insurer for service of process.

Section 179. **Commissioner process agent.** Delivery, effectuation, or solicitation of any insurance contract, by mail or otherwise, within this state by an unauthorized insurer, or the performance within this state of any other service or transaction connected with such insurance by or on behalf of such insurer, shall be deemed to constitute an appointment by such insurer of the commissioner and his successors in office as its attorney, upon whom may be served all lawful process issued within this state in any action or proceeding against such insurer arising out of any such contract or transaction; and shall be deemed to signify the insurer's agreement that any such service of process shall have the same legal effect and validity as personal service of process upon it in this state.

Procedure—service of process on unauthorized insurer.

Section 180. **Service of process.** (1) Service of process upon any such insurer pursuant to section 179 shall be made by delivering to and leaving with the commissioner or some person in apparent charge of his office two (2) copies thereof and the payment to him of such fees as may be prescribed by law. The commissioner shall forthwith mail by registered mail one of the copies of such process to the defendant at its principal place of business last known to the commissioner, and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of such service and a copy of the process are sent within ten days thereafter by registered mail by plaintiff's attorney to the defendant at its last known principal place of business, and the defendant's receipt or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed. and the affidavit of the plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

Valid service.

(2) Service of process in any such action, suit or proceeding shall in addition to the manner provided in subsection (1) of this section be valid if served upon any person within this state, who in this state on behalf of such insurer is:

(a) Soliciting insurance, or

(b) Making any contract of insurance or issuing or delivering any policies or written contracts of insurance, or

(c) Collecting or receiving any premium for insurance; and a copy of such process is sent within ten (10) days thereafter by registered mail by the plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(3) No plaintiff or complainant shall be entitled to a judgment by default under this section until the expiration of thirty (30) days from the date of the filing of the affidavit of compliance.

(4) Nothing in this section contained shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

Exemptions—surplus line insurance, reinsurance and others listed.

Section 181. **Exemptions from service of process provisions.** Sections 178, 179 and 180 shall not apply to surplus line insurance lawfully effectuated under this chapter, or to reinsurance, nor to any action or proceeding against an unauthorized insurer arising out of:

(1) Wet marine and transportation insurance.

(2) Insurance on or with respect to subjects located, resident, or to be performed wholly outside this state, or on or with respect to vehicles or aircraft owned and principally garaged outside this state.

(3) Insurance on property or operations of railroads engaged in interstate commerce, or

(4) Insurance on aircraft or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of such

aircraft, where the policy or contract contains a provision designating the commissioner as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such policy, or where the insurer enters a general appearance in any such action.

Requirements precedent to filing of pleading by unauthorized insurer.

Section 182. **Defense of action by unauthorized insurer.** (1) Before an unauthorized insurer shall file or cause to be filed any pleading in any action or proceeding instituted against it under sections 179 and 180 of this chapter, such insurer shall:

Certificate of authority.

(a) Procure a certificate of authority to transact insurance in this state, or

Deposit.

(b) Deposit with the clerk of the court in which such action or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action. The court may in its discretion make an order dispensing with such deposit or bond where the insurer makes a showing satisfactory to the court that it maintains in a state of the United States funds or securities, in trust or otherwise, sufficient and available to satisfy any final judgment which may be entered in such action or proceeding, and that the insurer will pay any final judgment entered therein without requiring suit to be brought on such judgment in the state where such funds or securities are located.

Stay of action.

(2) The court in any action or proceeding in which service is made in the manner provided in section 180 may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (1) above, and to defend such action.

Exception—motion to quash or set aside.

(3) Nothing in subsection (1), above, is to be construed to prevent an unauthorized insurer from filing a motion to quash or to set aside the service of any process made in the manner provided in section 180 hereof, on the ground either:

(a) That such unauthorized insurer has not done any of the acts enumerated in section 179, or

(b) That the person on whom service was made pursuant to subsection (2) of section 180 was not doing any of the acts therein enumerated.

Attorney's fees may be allowed.

Section 183. **Attorneys fees.** In any action against an unauthorized insurer under this unauthorized insurers service of process act, if the insurer has failed for thirty (30) days after demand prior to the commencement of the action to make payment in accordance with the terms of the insurance contract, and it appears to the court that such refusal was vexatious and without reasonable cause, the court may allow to the plaintiff a reasonable attorney's fee and include such fee in any judgment that may be rendered in such action. The fee shall not exceed one-third of the amount which the court or jury finds the plaintiff is entitled to recover against the insurer, but in no event shall such fee be less than one hundred dollars ($100.00). Failure of an insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

Title.

Section 184. **Surplus line insurance law; title.** Sections 184 through 201 of this chapter constitute and may be referred to as ''the surplus line insurance law.''

"Surplus line" defined.

Section 185. **''Surplus line'' insurance.** If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated ''surplus lines,'' may be procured from unauthorized insurers subject to the following conditions:

Licensed surplus line agent.

(1) The insurance must be procured through a licensed surplus line agent.

Limitation as to unauthorized insurer.

(2) The full amount of insurance required must not be procurable, after diligent effort has been made to do so, from among a majority of the insurers authorized to transact and actually writing that kind and class of insurance in this state and the amount of insurance placed in an unauthorized insurer shall be only the excess over the amount procurable from authorized insurers.

(3) The insurance must not be so procured for the purpose of securing advantages either as to:

Prohibited purposes.

(a) A lower premium rate than would be accepted by an authorized insurer; or

(b) Terms of the insurance contract.

Section 186. **Agents affidavit.** At the time of procuring, effecting, and issuing any such insurance, the surplus line agent shall execute an affidavit, in form as prescribed or accepted by the commissioner, setting forth facts referred to in section 185 and file such affidavit with the commissioner. Affidavits filed under this section shall be subject to public inspection unless the commissioner determines that the public interest requires otherwise.

Agent's affidavit required.

Section 187. **Endorsement of contract.** Every insurance contract, cover, note, or certificate of insurance procured and delivered as a surplus line coverage under this law shall be endorsed as having been "issued in an unauthorized insurer under the surplus line insurance law, under agent's license No.............." The surplus line agent shall properly fill in and sign the endorsement.

Endorsement of contract required.

Section 188. **Surplus line insurance valid.** Insurance contracts procured as "surplus line" coverages from unauthorized insurers in accordance with this law shall be fully valid and enforceable as to all parties, and shall be given acceptance and recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

Validity of surplus line contract.

Section 189. **Licensing of surplus line agent; fee; bond.** Any person, while licensed as a resident insurance agent of this state as to property, casualty, and surety insurances, and who is deemed by the commissioner to be qualified therefor by insurance experience and to be trustworthy, may be licensed as a surplus line agent as follows:

Licensing of surplus line agent.

(1) Application to the commissioner for the license shall be made on forms furnished by the commissioner.

Application.

(2) License fee in the amount stated in section 45 shall be paid to the commissioner. The license shall expire on the April 1 next after its date of issue.

Fee.

Bond.

(3) Prior to issuance of license the applicant shall file with the commissioner, and thereafter for as long as the license remains in effect he shall keep in force a bond in favor of the State of Montana in the penal sum of two thousand dollars ($2,000), with authorized corporate sureties approved by the commissioner. The bond shall be conditioned that the agent will conduct business under the license in accordance with the provisions of the surplus lines insurance law and that he will promptly remit the taxes provided by such law. The bond shall not be terminated unless at least thirty (30) days prior written notice thereof is filed with the commissioner.

Authority under license.

Section 190. **Agent's authority under license; acceptance of business from other agents.** (1) Under a surplus line agent's license the licensee shall have the right to place surplus line coverages, in compliance with the surplus line insurance law, with any foreign or alien insurer or insurers not otherwise authorized to transact insurance in this state, and as to such coverages to act as agent in this state for such insurer or insurers.

Business from other agents.

(2) The surplus line agent may accept surplus line business from any duly licensed agent of an authorized insurer and may compensate him therefor.

Surplus lines placed in solvent insurers—qualifications.

Section 191. **Surplus lines in solvent insurers.** A surplus line agent shall not knowingly place surplus line insurance with insurers unsound financially. The agent shall ascertain the financial condition of the unauthorized insurer before placing insurance therewith. The agent shall so insure only either:

(1) With an insurer which is an authorized insurer in at least one state of the United States for the kind of insurance involved, and which, if a stock insurer, has capital stock and surplus of at least three hundred fifty thousand dollars ($350,000) or, if any other type of insurer, has surplus of at least three hundred fifty thousand dollars ($350,000); or

(2) With an alien insurer, other than one qualified under subdivision (1) above, which has an established and effective trust fund of at least four hundred thousand dollars ($400,000) within the United States administered by a recognized financial institution and held for

the benefit of all its policyholders in the United States or policyholders and creditors in the United States.

Duty to issue evidence of surplus line coverage.

Section 192. **Evidence of the insurance; changes; penalty.** (1) Upon placing a surplus line coverage the surplus line agent shall promptly issue and deliver to the insured evidence of the insurance, consisting either of the policy as issued by the insurer or, if such policy is not then available, a certificate of insurance signed or countersigned by the agent. Such certificate shall show the subject, coverage, conditions and term of the insurance, the premium charged and taxes collected from the insured, and the name and address of the insurer. If the direct risk is assumed by more than one insurer, the certificate shall state the name and address and proportion of the entire direct risk assumed by each such insurer.

Procedure for corrections.

(2) If after the issuance and delivery of any such certificate there is any change as to the identity of the insurers, or the proportion of the direct risk assumed by the insurer as stated in the original certificate, or in any other material respect as to the insurance coverage evidenced by the certificate, the agent shall promptly issue and deliver to the insured a substitute certificate accurately showing the current status of the coverage and the insurers responsible thereunder.

Duty to procure policy.

(3) If a policy issued by the insurer is not available upon placement of the insurance and the agent has issued and delivered a certificate as hereinabove provided, upon request therefor by the insured the agent shall as soon as reasonably possible procure from the insurer its policy evidencing such insurance and deliver such policy to the insured in replacement of the certificate theretofore issued.

Penalty for issuing false evidence of insurance.

(4) Any surplus line agent who knowingly or negligently issues or delivers a false certificate of insurance, or fails promptly to notify the insured of any material change with respect to such insurance by delivery to the insured of a substitute certificate as provided in subsection (2), shall be guilty of a violation of this code and upon conviction shall be subject to the penalties provided by section 17 of this code or to any greater applicable penalty otherwise provided by law.

Liability of insurer fixed as to losses and unearned premiums.

Section 193. **Liability of insurer as to losses and unearned premiums.** (1) As to a surplus line risk which has been assumed by an unauthorized insurer pursuant to this surplus lines insurance law, and if the premium thereon has been received by the surplus line agent who placed such insurance, in all questions thereafter arising under the coverage as between the insurer and the insured the insurer shall be deemed to have received the premium due to it for such coverage; and the insurer shall be liable to the insured as to losses covered by such insurance, and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not in fact the agent is indebted to the insurer with respect to such insurance or for any other cause. This provision shall not affect rights as between the insurer and the surplus line agent.

Subjection of unauthorized insurer.

(2) Each unauthorized insurer assuming a surplus lines direct risk under this surplus line insurance law shall be deemed thereby to have subjected itself to the terms of this section.

Records and annual statements of surplus line agent required.

Section 194. **Records and annual statement.** (1) Each surplus line agent shall keep a separate record and account of all business transacted under his license, including a copy of each daily report, if any, and of each certificate of insurance issued by him. The records shall be available for examination by the commissioner at any reasonable time within five (5) years after the issuance of the coverage to which it relates.

(2) Prior to April 1 of each year the agent shall file with the commissioner a statement for the calendar year preceding, showing:

(a) Name and address of each insured for whom surplus line insurance was procured;

(b) Name and home office address of each insurer providing such insurance;

(c) Amount of each such coverage, the premium rate and the gross premium charged therefor;

(d) Date and term of the policy;

(e) Amount of premium returned on each policy cancelled or not taken; and

(f) Such additional information as the commissioner may reasonably require.

Tax on surplus lines.

Section 195. **Tax on surplus lines.** There is imposed upon premiums collected for surplus line insurance transacted in this state a tax at the same rate and computed in the same manner as provided in section 66 as to premiums of authorized insurers; except that amounts collected from the insured specifically for applicable state and federal taxes, and in excess of the premium otherwise required, shall not be deemed to be part of the premium for the purposes of such computation. Upon filing of the annual statement referred to in section 194 (2) the surplus line agent shall pay to the commissioner the amount of tax owing as to surplus line insurance business transacted by him during the preceding calendar year. If a surplus line policy covers risk or exposures only partially in this state, the tax payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

Payment with filing of annual statement.

Penalty for failure to file statement, pay taxes.

Section 196. **Penalty for failure to file statement, pay tax.** Every surplus line agent who fails to make and file the annual statement as required under section 194 or to pay the taxes as required under section 195, shall be liable to a penalty of twenty-five dollars ($25) for each day of delinquency, commencing with April 1. The tax and penalty may be recovered in an action instituted by the commissioner in the name of the state in any court of competent jurisdiction, the attorney general representing him. The penalty when collected shall be paid to the state treasurer and placed to the credit of the general fund. The surplus line agent's license shall also be subject to revocation as provided in section 197.

Revocation of surplus line agent's license for cause.

Section 197. **Revocation of agent's license.** (1) The commissioner shall revoke or suspend any surplus line agent's license, together with his license as an insurance agent or solicitor:

(a) If the agent fails to file his annual statement or to remit the tax as required by law; or

(b) If the agent fails to keep the records, or to allow the commissioner to examine his records, as required by law; or

(c) If the agent falsifies the affidavit required by section 186; or

(d) For any of the causes for which an insurance agent's license may be revoked.

(2) The procedures provided by section 173 for the suspension or revocation of agents' licenses shall be applicable to suspension or revocation of a surplus line agent's license.

(3) No agent whose license has been so revoked or suspended shall again be so licensed within one year thereafter, nor until all penalties and delinquent taxes owing by him have been paid.

Unauthorized insurer may be sued in district court.

Section 198. **Actions against insurer; venue; service of process.** Every unauthorized insurer issuing a surplus line coverage under this surplus line insurance law shall be deemed to be doing business in this state as an unlicensed insurer, and may be sued in this state upon any cause of action arising under any insurance contract so made by it. Such suit shall be brought in the district court of the county wherein the plaintiff resides.

Commissioner appointed agent of insurer for service of process.

Section 199. **Commissioner appointed process agent; service of process.** (1) Every surplus line insurer before insuring as such under this law shall in writing appoint the commissioner as its true and lawful attorney upon whom legal process in any action or proceeding against it in this state shall be served; and in such writing shall agree that any such process served upon such attorney shall be of the same legal force and validity as if served in this state upon such insurer, and that such authority shall continue in force so long as any liability remains outstanding against it in this state. At the time of filing such appointment the insurer shall also file designation of the name and address of the person to whom process against it served upon the commissioner is to be forwarded. The insurer may change such designation by a new filing.

(2) Service upon such an insurer shall be made upon the commissioner, and in accordance with the procedures, requirements, and results as provided under section 64.

Section 200. **Rules and regulations.** (1) The commis-

Authority of commissioner to make rules consistent with surplus line insurance law.

sioner shall make or may approve and adopt reasonable rules and regulations, consistent with this surplus line insurance law, for any or all of the following purposes:

(a) Effectuation of such law;

(b) Establishment of procedures through which determination is to be made as to the eligibility of particular proposed coverages for placement with a surplus line insurer or insurers; and

(c) Establishment, procedures, and operations of any voluntary organization of surplus line insurance agents or others designed to assist such agents to comply with such law.

(2) Such rules and regulations shall be subject to the procedures and carry the penalty provided by section 29.

Exemptions from surplus line law.

Section 201. **Exemptions from surplus line law.** The provisions of this surplus line insurance law controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurances when so placed by licensed insurance agents of this state:

(1) Wet marine and transportation insurances;

(2) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state;

(3) Insurance on property or operations of railroads engaged in interstate commerce; and

(4) Insurance of aircraft owned or operated by manufacturers of aircraft, or aircraft operated in scheduled interstate flight, or cargo of such aircraft, or against liability, other than workmen's compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

Report and tax required of independently procured coverages.

Section 202. **Report and tax of independently procured coverages.** (1) Every insured who in this state procures or causes to be procured or continues or renews insurance in an unauthorized foreign insurer, or any self-insurer who in this state so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this state, other than insurance procured through a surplus line agent pursuant to the surplus line insurance law of this state or exempted from such law under section 201, shall within thirty (30) days after the date such insurance was so procured, continued, or renewed, file a written report of the same with the commissioner on forms designated by the commissioner and furnished to such an insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor, and such additional pertinent information as is reasonably requested by the commissioner. If any such insurance covers also subject of insurance resident, located or to be performed outside this state a proper pro rata portion of the entire premium payable for all such insurance shall be allocated as to the subjects of insurance resident, located or to be performed in this state, for the purposes of this section.

Written report.

Independently procured coverages defined.

(2) Any insurance in an unauthorized insurer procured through negotiations or an application in whole or in part occurring or made within or from within this state, or for which premiums in whole or in part are remitted directly or indirectly from within this state, shall be deemed to be insurance procured, or continued or renewed in this state within the intent of subsection (1) above.

Rate of tax.

(3) For the general support of the government of this state there is levied upon the obligation, chose in action, or right represented by the premium charged or payable for such insurance, a tax at the rate of two (2%) percent of the gross amount of such premium. The insured shall withhold the amount of the tax from the amount of premium charged by and otherwise payable to the insurer for such insurance, and within thirty (30) days after the insurance was so procured, continued or renewed, and coincidentally with the filing with the commissioner of the report provided for in subsection (1) above, the insured shall pay the amount of the tax to the state treasurer through the commissioner.

(4) If the insured fails to withhold from the premium the amount of tax herein levied, the insured shall be liable for the amount thereof and shall pay the same to the commissioner within the time stated in subsection (3) above.

Insured's liability for tax.

(5) The tax imposed hereunder if delinquent shall bear interest at the rate of six (6%) percent per annum, compounded annually.

Interest.

(6) The tax shall be collectible from the insured by civil action brought by the commissioner.

Tax collectible by civil action.

(7) This section does not abrogate or modify, and shall not be construed or deemed to abrogate or modify, any provision of section 176 (representing or aiding unauthorized insurers prohibited) or 177 (suits by unauthorized insurers prohibited), or any other provision of this code.

(8) This section does not apply as to life or disability insurances:

Exemption—life or disability.

CHAPTER 10 — TRADE PRACTICES AND FRAUDS

Section 203. **Purposes of trade practices law.** The purpose of sections 203 through 217 is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress (ch. 20, 50 U.S. Stat. at Large 33)), by defining, or providing for determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

Trade practices law—purposes.

Section 204. **Unfair methods, deceptive acts prohibited.** No person shall engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to this chapter to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

Unfair method, deceptive acts prohibited.

Section 205. **Misrepresentation, false advertising of policies.** No person shall make, issue, circulate, or cause to be made, issued, or circulated, any estimate, circular, or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages

Misrepresentation, false advertising prohibited.

promised thereby or the dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or make any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or use any name or title of any policy or class of policies misrepresenting the true nature thereof.

False information prohibited.

Section 206. **False information, advertising.** No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

"Twisting" prohibited.

Section 207. **''Twisting'' prohibited.** No person shall make or issue, or cause to be made or issued, any written or oral statement misrepresenting or making incomplete comparisons as to the terms, conditions, or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, surrender, retain, exchange or convert any insurance policy.

False financial statements prohibited.

Section 208. **False financial statements.** (1) No person shall file with any supervisory or other public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

False entries prohibited.

(2) No person shall make any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law

to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

Defamation prohibited.

Section 209. **Defamation.** No person shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, or of an organization proposing to become an insurer, and which is calculated to injure any person engaged or proposing to engage in the business of insurance.

Boycott, coercion, intimidation prohibited.

Section 210. **Boycott, coercion and intimidation.** No person shall enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

Unfair discrimination prohibited—life insurance.

Section 211. **Unfair discrimination — Life insurance, annuities, and disability insurance.** (1) No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(2) No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of disability insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

Illegal rebates and inducements.

Section 212. **Rebates—Life, disability and annuity contracts.** Except as otherwise expressly provided by law, no person shall knowingly permit or offer to make or make any contract of life insurance, life annuity or disability insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract; or directly or indirectly give, or sell, or purchase or offer or agree to give, sell, purchase, or allow as inducement to such insurance or annuity or in connection therewith, and whether or not to be specified in the policy or contract, any agreement of any form or nature promising returns and profits, or any stocks, bonds, or other securities, or interest present or contingent therein or as measured thereby, of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued or to accrue thereon; or offer, promise or give anything of value whatsoever not specified in the contract.

Exceptions.

Section 213. **Exceptions to discrimination, rebates provision—Life, disability, and annuity contracts.** Nothing in sections 211 and 212 shall be construed as including within the definition of discrimination or rebates any of the following practices:

Bonuses paid out of surplus.

(1) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses, or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer.

Savings effected in collection expense.

(2) In the case of life insurance policies issued on the industrial debit, pre-authorized check, bank draft, or similar plans, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer or by pre-authorized check, bank draft, or similar plans, in an amount which fairly represents the saving in collection expense.

Readjustment of group insurance rates.

(3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience

thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

Reduced rate for policies of large amount.

(4) Reduction of premium rate for policies of large amount, but not exceeding savings in issuance and administration expenses reasonably attributable to such policies as compared with policies of similar plan issued in smaller amounts.

Deduction plans.

(5) Issuing life or disability insurance policies on a salary savings or payroll deduction plan at reduced rate reasonably commensurate with the savings made by the use of such plan.

Unfair discrimination, rebates prohibited—property, casualty, surety insurance.

Section 214. **Unfair discrimination, rebates prohibited—Property, casualty, surety insurances.** (1) No property, casualty or surety insurer or any employee or representative thereof, and no agent, or solicitor shall pay, allow, or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in the policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

Acceptance by insured prohibited.

(2) No insured named in a policy, nor any employee of such insured shall knowingly receive or accept directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

(3) No such insurer shall make or permit any unfair discrimination between insureds or property having like insuring or risk characteristics, in the premium or rates charged for insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the insurance.

Exceptions, payment of commissions, dividends, savings.

(4) Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, or solicitors, or as prohibiting any insurer from allowing or returning to its

participating policyholders, members or subscribers, lawful dividends, savings or unabsorbed premium deposits.

Stock as inducement prohibited.

Section 215. **Stock operations and advisory board contracts.** No person shall issue or deliver or permit its agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or any advisory board contract or other similar contract of any kind promising returns and profits as an inducement to insurance.

Enforcement of prohibited practices—desist orders.

Hearing after notice.

Section 216. **Desist orders for prohibited practices.** (1) If, after a hearing thereon of which notice of such hearing and of the charges against him were given such person, the commissioner finds that any person in this state has engaged or is engaging in any act or practice defined in or prohibited under this chapter, the commissioner shall order such person to desist from such acts or practices.

Appeal.

(2) Such desist order shall become final upon expiration of the time allowed for appeals from the commissioner's orders, if no such appeal is taken, or, in event of such an appeal, upon final decision of the court if the court affirms the commissioner's order or dismisses the appeal. An intervenor in such hearing shall have the right to appeal as provided in section 217 (3).

Order of court.

(3) In event of such an appeal, to the extent that the commissioner's order is affirmed the court shall issue its own order commanding obedience to the terms of the commissioner's order.

Liability.

(4) No order of the commissioner pursuant to this section or order of court to enforce it shall in any way relieve or absolve any person affected by such order from any other liability, penalty, or forfeiture under law.

Violation.

(5) Violation of any such desist order shall be deemed to be and shall be punishable as a violation of this code.

Penalties.

(6) This section shall not be deemed to affect or prevent the imposition of any penalty provided by this code or by other law for violation of any other provision of this chapter, whether or not any such hearing is called or held or such desist order issued.

Section 217. **Procedures as to undefined practices.** (1) If the commissioner believes that any person engaged in the insurance business is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not defined in this chapter, but that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be in the public interest, he shall, after a hearing of which notice of the hearing and of the charges against him are given such person, make a written report of his findings of fact relative to such charges and serve a copy thereof upon such person and any intervenor at the hearing.

Procedure—undefined practices.

Hearing after notice.

(2) If such report charges a violation of this chapter and if such method of competition, act or practice has not been discontinued, the commissioner may, through the attorney general of this state, at any time after the service of such report cause an action to be instituted to enjoin and restrain such person from engaging in such method, act, or practice. In such action the court may grant a restraining order or injunction upon such terms as may be just; but the people of this state shall not be required to give security before the issuance of any such order or injunction. If a stenographic record of the proceedings in the hearing before the commissioner was made, a certified transcript thereof including all evidence taken and the report and findings shall be received in evidence in such action.

Enforcement.

Injunction.

Evidence.

(3) If the commissioner's report made under subsection (1) above, or order on hearing made under section 216 does not charge a violation of this chapter, then any intervenor in the proceedings may appeal therefrom within the time and in the manner provided in this code for appeals from the commissioner generally.

Appeal.

Section 218. **Favored agent or insurer.** No person shall require as a condition precedent to loaning money upon the security of any real or personal property, or to the selling of any such property under contract, that the owner of the property to whom the money is to be loaned or the vendee of the property so being sold, shall place, continue, or renew any policy of insurance covering or to cover such property, or covering any liability related

Placing of insurance as inducement for loan prohibited.

to such property or the use thereof, through a particular insurance agent or in a particular insurer; except, that this provision shall not prevent the reasonable exercise by any such lender or vendor of the right to approve or disapprove of the insurer selected to underwrite the insurance.

Interlocking ownership, management.

Section 219. **Interlocking ownership, management.** (1) Any insurer may retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this code, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business or tends to create a monopoly therein.

(2) Any person otherwise qualified may be director of two or more insurers which are competitors, unless the effect thereof is to lessen substantially competition between insurers generally or tends materially to create a monopoly.

Political contributions prohibited.

Section 220. **Political contributions prohibited; penalty.** (1) No insurer shall directly or indirectly pay or use or offer, consent, or agree to pay, or use any money or property for or in aid of any political party, committee, or organization, or for or in aid of any corporation, or other body organized or maintained for political purposes, or for or in aid of any candidate for political office, or for nomination for such office, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used.

Penalty.

(2) Any officer, director, stockholder, attorney, or agent of any insurer which violates any of the provisions of this section, who participates in, aids, abets, or advises, or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor, and be punished by imprisonment for not more than one year and a fine of not more than one thousand dollars ($1,000); and any officer or director aiding or

abetting in any contribution made in violation of this section shall be liable to the insurer for the amount so contributed.

Illegal dealing in premiums.

Section 221. **Illegal dealing in premiums; improper charges for insurance.** (1) No person shall wilfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this code.

Improper charges for insurance.

(2) No person shall wilfully collect as premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the commissioner; or, in cases where classifications, premiums, or rates are not required by this code to be so filed and approved, such premiums and charges shall not be in excess of or less than those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus line agents licensed under chapter 9 of this code, of the amount of applicable state and federal taxes in addition to the premium required by the insurer. Nor shall it be deemed to prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy.

Violation.

(3) Each violation of this section shall be punishable under section 17 of this code (general penalty).

Preferred rates for fictitious groups prohibited.

Section 222. **Fictitious groups.** (1) No insurer, whether an authorized insurer or an unauthorized insurer, shall make available through any rating plan or form, property, casualty or surety insurance to any firm, corporation, or association of individuals, any preferred rate or premium based upon any fictitious group of such firm, corporation, or association of individuals.

Approval of commissioner for group plans required.

(2) No form or plan of insurance covering any group or combination of persons or risks shall be written or delivered within or outside this state to cover persons or risks in this state at any preferred rate or on any form

other than as offered to persons not in such group or combination and to the public generally, unless such form, plan of insurance, and the rates or premiums to be charged therefor have been submitted to and approved by the commissioner as being not unfairly discriminatory, and as not otherwise being in conflict with subsection (1) above or with any provision of chapter 11 of this code (rates and rating organization) to the extent that such chapter 11 is, by its terms, applicable thereto.

Exceptions, life, disability, annuity contracts.

(3) This section does not apply to life insurance, disability insurance, or annuity contracts.

Prohibited relations with mortuaries.

Section 223. **Prohibited relations with mortuaries.** (1) No life insurer shall own, manage, supervise, operate, or maintain any mortuary, funeral, or undertaking establishment, or permit its officers, employees, or representatives to own, operate, maintain or be employed in any such business.

(2) No life insurer shall contract or agree with any funeral director, mortuary, or undertaker to the effect that such funeral director, undertaker, or mortuary shall conduct the funeral of any person insured by such insurer.

Penalty.

(3) Each violation of this section shall constitute a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment at hard labor for not more than six (6) months, or both such fine and imprisonment in the discretion of the court.

False applications, claims, proofs of loss—penalty.

Section 224. **False applications, claims, proofs of loss; penalty.** Any solicitor, agent, examining physician, applicant, or other person, who knowingly or wilfully makes any false or fraudulent statement or representation in or with reference to any application for insurance; or for the purpose of obtaining any money or benefit, knowingly or wilfully presents or causes to be presented a false or fraudulent claim; or any proof in support of such a claim for the payment of the loss upon a contract of insurance; or prepares, makes, or subscribes a false or fraudulent account, certificate, affidavit or proof of loss, or other document or writing, with intent that the same may be presented or used in support of such a claim, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than two hundred and fifty dollars ($250) or more than one thousand dollars ($1,000) or by imprisonment in the county jail for not less than three (3) months or more than six (6) months, or both such fine and imprisonment at the discretion of the court.

CHAPTER 11 —
RATES AND RATING ORGANIZATIONS

Purpose to fairly regulate insurance rates.

Section 225. **Purpose of chapter; interpretation.** The purpose of this chapter is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this chapter. Nothing in this chapter is intended:

(1) To prohibit or discourage reasonable competition, or

(2) Prohibit or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

Applies to all insurers except life, disability, reinsurance, aircraft, marine, title.

Section 226. **Scope of chapter.** This chapter applies to all insurers and all kinds of insurance, except that nothing contained in this chapter shall apply to:

(1) Life insurance.

(2) Disability insurance.

(3) Reinsurance, except joint reinsurance as provided in section 250 of this chapter.

(4) Insurance against loss of or damage to aircraft, their hulls, accessories and equipment, or against liability, other than workmen's compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft.

(5) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies.

(6) Title insurance.

Rate making bases and standards.

Section 227. **Rate making bases and standards.** (1) All rates shall be made in accordance with the following provisions:

Loss experience, catastrophe hazards, dividends, savings, premium deposits, expenses and all relevant factors.

(a) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state.

Fair rates.

(b) Rates shall not be excessive, inadequate or unfairly discriminatory.

Rates—casualty insurance.

(c) Rates for casualty insurance to which this chapter applies shall also be subject to the following provisions:

Different expenses.

(i) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

Classification rates.

(ii) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

Rates—property, marine, inland marine insurance.

(d) Rates for property, marine and inland marine insurance to which this chapter applies shall also be subject to the following provisions:

(i) Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated.

Exception—specially rated inland marine risks.

(ii) Due consideration shall be given to the conflagration and catastrophe hazards, and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which such experience is available.

Conflagration and catastrophe hazards—fire loss experience.

(2) Except to the extent necessary to meet the provisions of subdivisions (b) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

Uniformity not required.

(3) Rates made in accordance with this section may be used subject to the provisions of this chapter.

Rates may be used.

Section 228. **Rate filings required.** (1) Every rating bureau shall file with the commissioner every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use for casualty insurance to which this chapter applies.

Rate filings required—by rating bureaus.

(2) Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use for fire (except fire on motor vehicles written by casualty insurers), marine and inland marine insurance to which this chapter applies. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

Rate filings by insurers.

(3) Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of this chapter, he shall require such insurer to furnish the information upon which it supports such filing, and in such event the

Filing based on information.

waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include:

(a) The experience or judgment of the insurer or rating organization making the filing;

(b) Its interpretation of any statistical data it relies upon;

(c) The experience of other insurers or rating organizations; or

(d) Any other relevant factors.

A filing and any supporting information shall be open to public inspection after the filing becomes effective.

Rate filings made by bureau in lieu of filing by member.

Section 229. **Filings may be made by bureau.** An insurer may satisfy its obligation to make the filings referred to in section 228 by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf; but nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

Commissioner may suspend or modify requirement of filing.

Section 230. **Exemption from filing.** Under such rules and regulations as he shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate or unfairly discriminatory.

Procedure.

Section 231. **Effective date of filing.** (1) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

Waiting period—effective date.

(2) Subject to the exceptions specified in subsections (3) and (4) of this section, each filing shall be on file

for a waiting period of fifteen (15) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen (15) days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

Specific inland marine rates effective on filing.

(3) Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of this chapter until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

Special filings effective when filed.

(4) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this chapter until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

Disapproval of filing within waiting period.

Section 232. **Disapproval of filing within waiting period.** (1) If within the waiting period or any extension thereof as provided in section 231 (2), the commissioner finds that a filing does not meet the requirements of this chapter, he shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing specifying therein in what respects he finds such filing fails to meet the requirements of this chapter and stating such filing shall not become effective.

Notice of disapproval of special inland marine filing.

(2) If within thirty (30) days after a specific inland marine rate on a risk specially rated by a rating organization subject to section 231 (3) has become effective, or if within thirty (30) days after a special surety or

guaranty filing subject to section 231 (4) has become effective, the commissioner finds that such filing does not meet the requirements of this chapter, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this chapter and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. The disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in the notice.

Subsequent disapproval of filing.

Section 233. **Subsequent disapproval of filing.** If at any time subsequent to the applicable review period provided for in section 232 the commissioner finds that a filing or rate does not meet the requirements of this chapter, he shall, after a hearing held upon not less than twenty (20) days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this chapter and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to every such insurer and rating organization. Such order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

Hearing after notice.

Order specifying defects.

Limitation of disapproval power.

Section 234. **Limitation of disapproval power.** No manual of classification, rules, rating plans, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, in the case of casualty and surety insurance to which this chapter applies, and no manual, minimum, class rate, rating schedule, rating plan or rating rule, or any modification of the foregoing, in the case of property insurance to which this chapter applies, and which has been filed pursuant to the requirements of this chapter shall be disapproved if the rates produced meet the requirements of this chapter.

Excess rates on specific risks.

Section 235. **Excess rates.** Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

Discriminatory, inadequate rates prohibited.

Section 236. **Discriminatory, inadequate rates prohibited.** No insurer making its own rates subject to the provisions of this chapter nor any rating bureau shall fix or charge any rate for insurance upon property in this state which discriminates unfairly between risks in the application of like charges and credits or which discriminates unfairly between risks of essentially the same hazard and having substantially the same degree of protection, nor shall any rate be such as to endanger the solvency of such insurer.

Power to correct improper rates.

Section 237. **Commissioner's power to correct improper rates; interpretation of rate standard.** The commissioner shall have the power at any time on written petition or upon his own motion to review any rate fixed by any insurer making its own rates or by any rating bureau for insurance upon property within this state, for the purpose of determining whether the same is excessive, inadequate or unfairly discriminatory. He shall have the power and authority to order the excessive, inadequate or discriminatory rate removed and fix and order a rate in lieu of the rate made by any such insurer or the bureau rate found to be excessive, inadequate or unfairly discriminatory, and the rate so ordered and fixed shall become the established rate. No rate shall be held to be excessive, inadequate or unfairly discriminatory if the commissioner finds that free competition exists in the area and classification covered by such rate. No rate shall be held to be inadequate unless the commissioner finds that the continued use of such rate shall endanger the solvency of the insurer charging such rate.

Interpretation of rate standard.

Concerted action in rate making.

Section 238. **Rate bureau defined and authorized.** Subject to the provisions of this chapter, two (2) or more admitted insurers, not members of a "group" as referred to in section 248, may act in concert with each other and with others with respect to all matters pertaining to the making of rates, rating plans or rating systems or in the preparation or making of insurance policy or bond forms, underwriting rules, surveys, inspections and investigations or the furnishing of loss or expense statistics or other information and data, or carrying on of research and shall be known as a rating bureau. No insurer or "group" shall be deemed to be a rating organization.

Rate bureaus—procedure for licensing.

Section 239. **Rate bureaus—Licensing.** (1) Any corporation, unincorporated association, partnership, or individual, whether located within or outside this state, may make application for and obtain a license as a rating organization. To obtain such a license the applicant shall file with the commissioner:

(a) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business;

(b) A list of its members and subscribers;

(c) The name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served; and

(d) A statement of its qualifications as a rating organization.

If the commissioner finds that the applicant meets the licensing requirements of this chapter applicable to it and is trustworthy and competent to act as a rating organization he shall issue a license.

Continuation of license.

(2) Licenses issued pursuant to this section shall remain in effect for three (3) years unless sooner suspended or revoked by the commissioner. The fee for the license shall be twenty-five dollars ($25). Such license fee shall be in lieu of all other fees, licenses or taxes to which the rating organization might otherwise be subject.

Rating bureau obligations and and limitations.

Section 240. **Bureau obligations, limitations as to insurers, members, and subscribers.** A rating organization shall:

(1) Permit any authorized insurer or "group" to obtain and use at its option such rating organizations' rates and rating manuals at a reasonable cost without discrimination and without any requirement to become a member or subscriber;

(2) Permit any authorized insurer or "group" to become a member of or a subscriber to such rating organization or withdraw therefrom;

(3) Neither have nor adopt any rule or exact any agreement, the effect of which would be to require as a condition to membership or subscription that any member or subscriber shall adhere to its rates, rating plans or rating systems;

(4) Neither adopt any rule or exact any agreement the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers. A plan for the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers shall not be deemed to be a rating plan or system.

Duties of rating bureau to give notice of changes.

Section 241. **Notice of changes.** Every rating organization shall notify the commissioner promptly of every change in:

(1) Its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business;

(2) Its list of members and subscribers; and

(3) The name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

Use of technical services.

Section 242. **Technical services.** Any rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all members and subscribers without discrimination.

Stamping bureau.

Section 243. **Stamping bureau.** Any fire and marine insurance rating organization may provide for the examination of policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within sixty (60) days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, it shall be the duty of the rating organization to notify the commissioner thereof. All information so submitted for examination shall be confidential.

Adherence to filings.

Section 244. **Adherence to filings; precedence as between filings.** As to coverages which are subject to rate filings made under this chapter the insurer shall adhere to and comply with its currently applicable filings and rates.

Procedure—filing of deviated rates.

Section 245. **Deviations.** (1) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that:

(a) In the case of casualty insurance to which this chapter applies any such insurer may make written application to the commissioner for permission to file a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a kind of insurance, or for a class of insurance which is found by the commissioner to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of a kind of insurance (i) comprised of a group of manual classifications which is treated as a separate unit for rate making purposes, or (ii) for which separate expense provisions are included in the filings of the rating organization. Such application shall specify the basis for the modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be sent simultaneously to such rating organization; and

(b) In the case of fire, marine, and inland marine insurance to which this chapter applies every insurer may make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance or combination thereof. Such application shall specify the basis for the deviation and a copy thereof shall be sent simultaneously to such rating organization.

Hearing after notice.

(2) The commissioner shall set a time and place for a hearing on such application at which the insurer and such rating organization may be heard and shall give them not less than ten (10) days' written notice thereof. In the event the commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. In considering the application for permission to file such deviation in the case of fire, marine and inland marine insurance, the commissioner shall give consideration to the available statistics and the principles for rate making as provided in section 227. The commissioner shall issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified or that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one (1) year from date of such permission unless terminated sooner with the approval of the commissioner.

Waiver of hearing.

Order allowing modification.

Effective date of filing.

Duties of bureau to inform commissioner.

Section 246. **Information, filings from rating organizations.** The commissioner may in his discretion address inquiries to any individual, association or bureau which is or has been engaged in making rates or estimates for rates as provided for in this chapter in relation to its organization, maintenance, or operation, or any other matter connected with its transactions and shall require the filing of schedules, rates, forms, rules, regulations, and other information; and it shall be the duty of every such individual, association or bureau, or some officer thereof, to promptly make such filing and reply to such inquiries in writing.

Inspections and surveys.

Section 247. **Inspections and surveys.** Every insurer and rating bureau engaged in making rates or estimates for rates on property in this state shall inspect every risk specially rated by it on schedule and make a written survey of the risk, which shall be filed as a permanent record in the office of the insurer or bureau. A copy of this survey shall be furnished to the owner of the property upon request.

Insurer "groups" defined.

Section 248. **Insurer "groups"; right to use same rates.** Two or more insurers who are not members of or subscribers to a rating organization and who by virtue of their business association in the United States represent themselves to be or are customarily known as a "group," or similar insurance trade designation, shall have the right to use the same rates for each such insurer subject to the provisions of this chapter; and nothing contained in this chapter shall be construed to prohibit an agreement to make or use the same rates and concerted actions in connection with such rates by such insurers.

Right to use rates.

Advisory organizations defined.

Section 249. **Advisory organizations.** (1) Every group, association or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this chapter, shall be known as an advisory organization.

Required filings.

(2) Every advisory organization shall file with the commissioner (a) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules and regulations governing its activities, (b) a list of its members, (c) the name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at his direction may be served, and (d) an agreement that the commissioner may examine such advisory organization in accordance with the provisions of section 251.

Hearing and determination.

(3) If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such act or practice.

Use of recommendations of unauthorized advisory organization prohibited.

(4) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with

this section or with an order of the commissioner involving such statistics or recommendations issued under subsection (3) of this section. If the commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

Joint underwriting and joint reinsurance subject to regulation.

Section 250. **Joint underwriting and joint reinsurance.** (1) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this chapter, and, with respect to joint reinsurance, to section 251.

Hearing—order.

(2) If, after a hearing, the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter and requiring the discontinuance of such activity or practice.

Power of commissioner to examine rating bureaus, advisory organizations, joint underwriters and joint reinsurers.

Section 251. **Examination of rating bureaus, advisory organizations, joint underwriters and joint reinsurers.** The commissioner shall have the power to examine any such rating bureau, advisory organization, joint underwriters, and joint reinsurers as often as he deems it expedient to do so and shall do so not less than once every three (3) years. A report thereof shall be filed in his office. The commissioner may waive such examination upon the filing with him of a report of an examination made by some other insurance department or proper supervising officer within the three (3) years. The cost of such examination shall be borne by the person so examined. A statement in regard to such examination shall be made in the annual report of the commissioner.

Dividends not regulated.

Section 252. **Dividends not to be regulated.** Nothing in this chapter shall be construed to prohibit or regulate the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

Power of commissioner to regulate interchange of data.

Section 253. **Interchange of rating plan data; consultation; cooperative action in rate making.** (1) Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

Interchange to further uniformity.

(2) In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

Cooperation.

(3) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this chapter is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this chapter which are applicable to filings generally. The commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter and requiring the discontinuance of such activity or practice.

Assigned risk plan.

Section 254. **Assigned risk plan—Casualty and surety.** Agreements may be made among casualty and surety insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modification for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner.

Penalty for giving false information.

Section 255. **False or misleading information.** No person shall wilfully withhold information from or knowingly give false or misleading information to the commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under this chapter. A violation of this section shall subject the one guilty of such violation to the penalties provided in section 17 of this code.

Procedure—appeal to commissioner.

Section 256. **Appeal to commissioner as to filing.** Any person aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon, except, however, that the insurer or rating organization that made the filing shall not be authorized to proceed under this section. Such application shall specify the grounds to be relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within thirty (30) days after receipt of such application, hold a hearing upon not less than ten (10) days' written notice to the applicant and to every insurer and rating organization which made such filing. If, after such hearing, the commissioner finds that the filing does not meet the requirements of this chapter, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to the applicant and to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

Procedure—appeals from commissioner to district court.

Section 257. **Appeals from the commissioner.** Any person, insurer or rating organization aggrieved by any order or decision made by the commissioner under this chapter may appeal therefrom to the district court of the county where the aggrieved party may reside, or has his principal place of business in this state, or to the district court of Lewis and Clark County, Montana. The appeal shall be taken within thirty (30) days from the making and filing of the order or decision, by filing in the office of the commissioner a notice of the appeal in writing. The commissioner shall within twenty (20) days after filing of the notice, make and return to the

Notice of appeal.

Transcript.

district court a full and complete certified transcript of the finding and order appealed from and of all parts relative thereto on file in his office, including the notice of appeal. Upon the filing of the certified transcript all matters involved therein shall be brought on for trial upon the merits at the next term of the court after the filing of the transcript, unless otherwise ordered by the court. Upon the trial the findings of fact on which the order is based shall be prima facie evidence of the matters therein stated. During the pendency of the proceedings upon review the order of the commissioner shall be suspended, but in the event of a final determination against any insurer, any overcharge by the insurer during review shall be refunded to the persons entitled thereto.

Time of trial.

Findings.

Suspension during pendency.

CHAPTER 12 — THE INSURANCE CONTRACT

Scope of chapter on insurance contracts.

Section 258. **Scope of chapter.** This chapter shall not apply as to:

(1) Reinsurance.

(2) Policies or contracts not issued for delivery in this state nor delivered in this state, except as provided in section 271 (approval of forms for delivery in jurisdictions where local approval not provided for).

(3) Ocean marine and foreign trade insurances.

(4) Title insurance, except as to the following provisions:

(a) Section 267 (power to contract, etc.).

(b) Section 271 (filing, approval of forms).

(c) Section 272 (grounds for disapproval).

(d) Section 277 (charter, bylaw provisions).

(e) Section 278 (execution of policies).

(f) Section 282 (construction of policies).

"Policy" defined.

Section 259. **"Policy" defined.** "Policy" means the written contract of or written agreement for or effecting insurance, by whatever name called, and includes all clauses, riders, endorsements and papers attached thereto and a part thereof.

Section 260. **"Premium" defined.** "Premium" is the consideration for insurance, by whatever name called. Any "assessment," or any "membership," "policy," "survey," "inspection," "service" or similar fee or charge in consideration for an insurance contract is deemed part of the premium.

"Premium" defined.

Section 261. **Insurable interest, personal insurance.** (1) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

Insurable interest required.

(2) If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

Action to recover benefits obtained where no insurable interest.

(3) "Insurable interest" with reference to personal insurance includes only interests as follows:

"Insurable interest" defined.

(a) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection.

(b) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured.

(c) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a closed corporation or of an interest in such shares, has an insurable interest in the life of each individual party to such contract and for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to the life of such individual.

Insurable interest—property.

Section 262. **Insurable interest, property.** (1) No contract of insurance of property or of any interest in property or arising from property shall be enforceable as to the insurance except for the benefit of persons having an insurable interest in the things insured as at the time of the loss.

Defined.

(2) "Insurable interest" as used in this section means any actual, lawful, and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction, or pecuniary damage or impairment.

Measure.

(3) The measure of an insurable interest in property is the extent to which the insured might be damnified by loss, injury, or impairment thereof.

Interest of assured in property insurance.

Section 263. **Interest of named insured — Property insurance.** When the name of the person insured is specified in a policy insuring property the insurance can be applied only to his own proper interest.

Change of interest in event of death—property insurance.

Section 264. **Change of interest on death — Property insurance.** A change of interest, by will or succession, on the death of the insured, does not avoid an insurance of property and the insurance passes to the person taking his interest in the thing insured.

Transfers of interest—property.

Section 265. **Transfer of interest between joint insurers — Property insurance.** A transfer of interest by one of several partners, joint owners, or owners in common, who are jointly insured, to the others, does not avoid an insurance of property even though it has been agreed that the insurance shall cease upon an alienation of the thing insured.

Insurance without interest, or of wager, is void.

Section 266. **Insurance without interest, or of wager, is void.**

(1) Every stipulation in a policy of insurance of property for the payment of loss without regard to absence of an insurable interest in such property on the part of the insured, or that the policy shall be received as proof of such interest, is void.

(2) Every policy executed by way of gaming or wagering is void.

Section 267. **Power to contract; purchase of insurance by minors.** (1) Any person of competent legal capacity may contract for insurance.

Power to contract for insurance.

(2) Any minor of the age of fifteen (15) years or more, as determined by the nearest birthday, may, notwithstanding his minority, contract for annuities and for insurance upon his own life, body, health, property, liabilities or other interests, or on the person of another in whom the minor has an insurable interest. Such a minor shall, notwithstanding such minority, be deemed competent to exercise all rights and powers with respect to or under (a) any contract for annuity or for insurance upon his own life, body or health, or (b) any contract such minor affected upon his own property, liabilities or other interests, or on the person of another, as might be exercised by a person of full legal age, and may at any time surrender his interest in any such contracts and give valid discharge for any benefit accruing or money payable thereunder. Such a minor shall not, by reason of his minority, be entitled to rescind, avoid or repudiate the contract, nor to rescind, avoid or repudiate any exercise of a right or privilege thereunder, except that such a minor, not otherwise emancipated, shall not be bound by any unperformed agreement to pay by promissory note or otherwise, any premium on any such annuity or insurance contract.

Limitation on age—minors' rights.

(3) If any minor mentioned in subsection (2) above, is possessed of an estate that is being administered by a guardian, no such contract shall be binding upon the estate as to payment of premiums, except as and when consented to by the guardian and approved by the probate court of the county in which the administration of the estate is pending, and such consent and approval shall be required as to each annual premium payment.

Payment of premiums from minors' estates—court approval.

(4) Any annuity contract or policy of life or disability insurance procured by or for a minor under subsection (2) above, shall be made payable either to the minor or his estate or to a person having an insurable interest in the life of the minor under section 261.

Limitation on payment of policy.

Applications required—life and disability insurance.

Section 268. **Application required — Life and disability insurance.** No life or disability insurance contract upon an individual, except a contract of group life insurance or of group or blanket disability insurance, shall be made or effectuated unless at the time of the making of the contract the individual insured, being of competent legal capacity to contract, applies therefor or has consented thereto in writing, except in the following cases:

(1) A spouse may effectuate such insurance upon the other spouse.

(2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of or pertaining to such minor.

(3) Family policies insuring any two or more members of a family may be issued on an application signed by either parent, a stepparent, or by a husband or wife.

Applications as evidence—life or disability.

Section 269. **Application as evidence; alteration of application.** (1) No application for the issuance of any life or disability insurance policy or annuity contract shall be admissible in evidence in any action relative to such policy or contract, unless a true copy of the application was attached to or otherwise made a part of the policy or contract when issued. This provision shall not apply to industrial life insurance policies.

Duty of insurer to furnish copy of application on request—effect of non-compliance.

(2) If any policy of life or disability insurance delivered in this state is reinstated or renewed, and the insured or the beneficiary or assignee of the policy makes written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall, within thirty (30) days after receipt of such request at its home office or at any of its branch offices, deliver, or mail to the person making such request a copy of such application. If such copy is not so delivered or mailed after having been so requested, the insurer shall be precluded from introducing the application in evidence in any action or proceeding based upon or involving the policy or its reinstatement or renewal. In the case of such request from a beneficiary, the time within which the insurer is required to furnish a copy of such application shall not begin to run until after receipt

of evidence satisfactory to the insurer of the beneficiary's vested interest in the policy or contract.

Duty to furnish copy of application for other than life or disability insurance.

(3) As to kinds of insurance other than life or disability insurance, no application for insurance signed by or on behalf of the insured shall be admissible in evidence in any action between the insured and the insurer arising out of the policy so applied for, if the insurer has failed, at expiration of thirty (30) days after receipt by the insurer of written demand therefor by or on behalf of the insured, to furnish to the insured a copy of such application reproduced by any legible means.

Alterations of application.

(4) No alteration of any written application for any life or disability insurance policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

Information furnished on application deemed representation—not warranty.

Section 270. **Representations in applications.** All statements and descriptions in any application for an insurance policy or annuity contract, or in negotiations therefor, by or in behalf of the insured or annuitant, shall be deemed to be representations and not warranties.

Effect of misrepresentations.

Misrepresentations, omissions, concealment of facts, and incorrect statements shall not prevent a recovery under the policy or contract unless either:

(a) Fraudulent; or

(b) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or

(c) The insurer in good faith would either not have issued the policy or contract, or would not have issued a policy or contract in as large an amount, or at the same premium or rate, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.

Filing and approval of forms by commissioner.

Section 271. **Filing, approval of forms.** (1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to surety bonds, or to specially rated inland marine risks, nor to policies, riders, endorsements, or form of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to forms for use in property, marine (other than ocean marine and foreign trade coverages), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

Exceptions.

Filing by rating organizations.

Time for filing and approval.

(2) Every such filing shall be made not less than thirty (30) days in advance of any such delivery. At the expiration of such thirty (30) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than an additional thirty (30) days the period within which he may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial thirty (30) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

Order of disapproval.

(3) Any order of the commissioner disapproving any such form or withdrawing a previous approval shall state the grounds therefor, and the particulars thereof in such details as reasonably to inform the insurer thereof.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

Commissioner may exempt from filing.

(5) This section shall apply also to any such form used by domestic insurers for delivery in a jurisdiction outside this state, if the insurance supervisory official of such jurisdiction informs the commissioner that such form is not subject to approval or disapproval by such official, and upon the commissioner's order requiring the form to be submitted to him for the purpose. The applicable same standards shall apply to such forms as apply to forms for domestic use.

Reciprocity.

Section 272. **Grounds for disapproval.** The commissioner shall disapprove any form filed under section 271, or withdraw any previous approval thereof, only if the form:

Grounds for disapproval.

(1) Is in any respect in violation of or does not comply with this code.

(2) Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(3) Has any title, heading, or other indication of its provisions which is misleading.

(4) Is printed or otherwise reproduced in such manner as to render any provision of the form substantially illegible.

Section 273. **Standard provisions, in general.** (1) Insurance contracts shall contain such standard or uniform provisions as are required by the applicable provisions of this code pertaining to contracts of particular kinds of insurance. The commissioner may waive the required use of a particular provision in a particular insurance policy form if:

Standard provisions—insurance contracts.

Waiver of provisions.

(a) He finds such provision unnecessary for the protection of the insured and inconsistent with the purposes of the policy, and

(b) The policy is otherwise approved by him.

(2) No policy shall contain any provision inconsistent with or contradictory to any standard or uniform provision used or required to be used, but the commissioner may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the provisions otherwise required.

(3) In lieu of the provisions required by this code for contracts for particular kinds of insurance, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the commissioner.

(4) No such provision, if required to be contained in the policy, can be waived by agreement between the insurer and any other person.

Policy must contain entire contract.

Section 274. **Policy must contain entire contract.** The policy, when issued, shall contain the entire contract between the parties, and neither the insurer or any agent or representative thereof, nor any person insured thereunder, shall make any agreement as to the insurance which is not plainly expressed in the policy. This provision shall not be deemed to prohibit the modification of a policy, after issuance, by written rider or endorsement duly issued by the insurer.

General contents of policies.

Section 275. **Contents of policies in general; identification.**

(1) Every policy shall specify:

Names.

(a) The names of the parties to the contract.

Subject.

(b) The subject of the insurance.

Risks.

(c) The risks insured against.

Time.

(d) The time when the insurance thereunder takes effect and the period during which the insurance is to continue.

(e) The premium.

Premium.

(f) The conditions pertaining to the insurance.

Conditions.

(2) If under the policy the exact amount of premium is determinable only at stated intervals or termination of the contract, a statement of the basis and rates upon which the premium is to be determined and paid shall be included.

Rate basis.

(3) Subsections (1) and (2) of this section shall not apply as to surety contracts, or to group insurance policies.

Exceptions.

(4) All policies and annuity contracts issued by domestic insurers, and the forms thereof filed with the commissioner, shall have printed thereon an appropriate designating letter or figure, or combination of letters or figures or terms identifying the respective forms of policies or contracts, together with the year of adoption of such form. Whenever any change is made in any such form, the designating letters, figures or terms and year of adoption thereon shall be correspondingly changed.

Required printing of forms of policies.

Section 276. **Additional policy contents.** A policy may contain additional provisions not inconsistent with this code and which are:

Additional policy contents allowed.

(1) Required to be inserted by the laws of the insurer's domicile;

(2) Necessary, on account of the manner in which the insurer is constituted or operated, in order to state the rights and obligations of the parties to the contract; or

(3) Desired by the insurer and neither prohibited by law nor in conflict with any provisions required to be included therein.

Section 277. **Charter, bylaw provisions.** No policy shall contain any provision purporting to make any portion of the charter, bylaws or other constituent document of the insurer (other than the subscribers' agreement or power of attorney of a reciprocal insurer) a part of the contract unless such portion is set forth in full in the policy. Any policy provision in violation of this section shall be invalid.

Charter, by law provisions.

Execution of policies.

Section 278. **Execution of policies.** (1) Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney-in-fact, employee, or representative duly authorized by the insurer.

Facsimile signature.

(2) A facsimile signature of any such executing individual may be used in lieu of an original signature.

Validity of existing contracts.

(3) No insurance contract heretofore or hereafter issued and which is otherwise valid shall be rendered invalid by reason of the apparent execution thereof on behalf of the insurer by the imprinted facsimile signature of an individual not authorized so to execute as of the date of the policy.

Underwriters' policies.

Section 279. **Underwriters' and combination policies.** (1) Two or more authorized insurers may jointly issue, and shall be jointly and severally liable on, an underwriters' policy bearing their names. Any one insurer may issue policies in the name of an underwriter's department and such policy shall plainly show the true name of the insurer.

Combination policies.

(2) Two or more insurers may, with the approval of the commissioner, issue a combination policy which shall contain provisions substantially as follows:

Insurers severally liable.

(a) That the insurers executing the policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of insurance under the policy, and

Service of process.

(b) That service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing the policy, shall constitute service upon all such insurers.

Exception.

(3) This section shall not apply to co-surety obligations.

Interest in reinsurance.

Section 280. **Interest in reinsurance.** The original insured has no interest in a contract of reinsurance.

Validity of noncomplying forms.

Section 281. **Validity of noncomplying forms.** Any insurance policy, rider, or endorsement hereafter issued and otherwise valid which contains any condition or provision not in compliance with the requirements of this code, shall not be thereby rendered invalid but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy, rider, or endorsement been in full compliance with this code.

Section 282. **Construction of policies.** Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended, or modified by any rider, endorsement, or application which is a part of the policy.

Construction of policies.

Section 283. **Binders.** (1) Binders or other contracts for temporary insurance may be made orally or in writing, and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder.

Binder—terms.

(2) No binder shall be valid beyond the issuance of the policy with respect to which it was given, or beyond ninety days from its effective date, whichever period is the shorter.

Validity.

(3) If the policy has not been issued a binder may be extended or renewed beyond such ninety days with the written approval of the insurer.

Extension.

(4) This section shall not apply to life or disability insurances.

Exception.

Section 284. **Delivery of policy.** (1) Subject to the insurer's requirements as to payment of premium, every policy shall be mailed or delivered to the insured or to the person entitled thereto within a reasonable period of time after its issuance, except where a condition required by the insurer has not been met by the insured.

Delivery of policy.

(2) In event the original policy is delivered or is so required to be delivered to or for deposit with any vendor, mortgagee, or pledgee of any motor vehicle or aircraft, and in which policy any interest of the vendee, mortgagor, or pledgor in or with reference to such vehicle or aircraft is insured, a duplicate of such policy setting forth the name and address of the insurer, insurance classification of vehicle or aircraft, type of cover-

Duplicate policy.

age, limits of liability, premiums for the respective coverages, and duration of the policy or memorandum thereof containing the same such information, shall be delivered by the vendor, mortgagee, or pledgee to each such vendee, mortgagor, or pledgor named in the policy or coming within the group of persons designated in the policy to be so included. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a statement of such fact shall be printed, written, or stamped conspicuously on the face of such duplicate policy or memorandum.

Policy may be renewed by certificate.

Section 285. **Renewal by certificate.** Any insurance policy terminating by its terms at a specified expiration date and not otherwise renewable, may be renewed or extended at the option of the insurer and upon a currently authorized policy form and at the premium rate then required therefor, for a specific additional period or periods by certificate or by endorsement of the policy, and without requiring the issuance of a new policy.

Assignment of policies.

Section 286. **Assignment of policies.** A policy may be assignable or not assignable, as provided by its terms. Subject to its terms relating to the assignability, any life or disability policy, whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the insured may be assigned either by pledge or transfer of title, by an assignment executed by the insured alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge, or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.

Payment of policy discharges insurer.

Section 287. **Payment discharges insurer.** Whenever the proceeds of or payments under a life or disability insurance policy or annuity contract heretofore or hereafter issued become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance with the terms of the policy or contract or in accordance with any written assignment thereof, the person then designated in the policy or contract or by such assignment as being entitled thereto shall be entitled to receive such proceeds or payments and to give full acquittance therefor, and such payments shall fully discharge the insurer from all claims under the policy or contract unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.

Minor may give acquittance.

Section 288. **Minor may give acquittance.** (1) Any minor domiciled in this state who has attained the age of sixteen years shall be deemed competent to receive and to give full acquittance and discharge for a payment or payments in aggregate amount not exceeding three thousand dollars ($3,000) in any one year made by a life insurer under the maturity, death or settlement agreement provisions in effect or elected by such minor under a life insurance policy or annuity contract, provided such policy, contract or agreement shall provide for the payment or payments to such minor, and if prior to such payment the insurer has not received written notice of the appointment of a duly qualified guardian of the property of the minor. No such minor shall be deemed competent to alienate the right to or to anticipate such payments. This section shall not be deemed to restrict the rights of minors set forth in section 267 of this chapter.

(2) This section shall not be deemed to require any insurer to determine whether any other insurer may be effecting a similar payment to the same minor.

Forms for proof of loss.

Section 289. **Forms for proof of loss to be furnished.** An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued by such insurer, forms of proof of loss for completion by such person, but such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of such proof or the manner of any such completion or attempted completion.

Claims administration not waiver of rights of insurer.

Section 290. **Claims administration not waiver.** Without limitation of any right or defense of an insurer otherwise, none of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder:

(1) Acknowledgment of the receipt of notice of loss or claim under the policy.

(2) Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.

(3) Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

Exemption of life insurance proceeds as to creditors.

Section 291. **Exemption of life insurance proceeds as to creditors.** (1) If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself, or except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such insurance or executors or administrators of such insured or the person so effecting such insurance, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted, and whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall predecease such person; except that, subject to the statute of limitations, the amount of any premiums for such insurance paid with intent to defraud creditors with interest thereon, shall enure to their benefit from the proceeds of the policy; but the insurer issuing the policy shall be discharged of all liability thereof by payment of its proceeds in accordance with its terms, unless before such payment the insurer shall have received written notice at its home office, by or in behalf of a creditor, of a claim to recover for transfer

Exception—premiums paid with intent to defraud creditors.

made or premiums paid with intent to defraud creditors, with specifications of the amount so claimed.

Payment to other than insured.

(2) For the purposes of subsection (1) above, a policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the policy permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

Exemption of proceeds—group life.

Section 292. **Exemption of proceeds, group life.** (1) A policy of group life insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any debt or liability of such insured individual or his beneficiary or of any other person having a right under the policy. The proceeds thereof, when not made payable to a named beneficiary or to a third person pursuant to a facility-of-payment clause, shall not constitute a part of the estate of the individual insured for the payment of his debts.

Exception.

(2) This section shall not apply to group life insurance issued pursuant to chapter 14 of this code to a creditor covering his debtors, to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

Exemption of proceeds—disability insurance.

Section 293. **Exemption of proceeds, disability insurance.** The proceeds or avails of all contracts of disability insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts heretofore or hereafter effected shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing at the time the proceeds are made available for his use.

Exemption of proceeds—annuity contracts.

Section 294. **Exemption of proceeds, annuity contracts; assignability of rights.** (1) The benefits, rights, privileges and options which under any annuity contract heretofore or hereafter issued are due or prospectively due the annuitant, shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers, or options, nor shall creditors be allowed to interfere with or terminate the contract, except:

Exception—amounts paid in defraud of creditors.

(a) As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payments to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payments sought to be avoided on the ground of fraud.

Amount of exemption.

(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant, shall not at any time exceed two hundred and fifty dollars ($250) per month for the length of time represented by such installments, and that such periodic payments in excess of three hundred and fifty dollars ($350) per month shall be subject to garnishee execution.

Amount subject to execution.

(c) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, shall at any time exceed payment at the rate of three hundred and fifty dollars ($350) per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

Assignability.

(2) If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions contained herein for the annuitant, shall apply with respect to such beneficiary or assignee.

Annuity contract defined.

(3) An annuity contract within the meaning of this

section shall be any obligation to pay certain sums at stated times, during life or lives, or for a specified term or terms, issued for a valuable consideration, regardless of whether or not such sums are payable to one or more persons, jointly or otherwise, but does not include payments under life insurance contracts at stated times during life or lives, or for a specified term or terms.

CHAPTER 13—LIFE INSURANCE AND ANNUITIES

Scope.

Section 295. **Scope of chapter.** This chapter applies only to contracts of life insurance and annuities, other than reinsurance, group life insurance and group annuities.

"Industrial life insurance" defined.

Section 296. **"Industrial life insurance" defined.** For the purposes of this code "industrial life insurance" is that form of life insurance written under policies of face amount of one thousand dollars ($1,000) or less bearing the words "industrial policy" imprinted on the face thereof as part of the descriptive matter, and under which premiums are payable monthly or more often.

Standard provisions required—life insurance.

Section 297. **Standard provisions required.** (1) No policy of life insurance other than group, and pure endowments with or without return of premiums or of premiums and interest, shall be delivered or issued for delivery in this state unless it contains in substance all of the applicable provisions as required by sections 298 to 310, inclusive, of this chapter. This section shall not apply to annuity contracts nor to any provision of a life insurance policy, or contract supplemental thereto, relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(2) Any of such provisions or portions thereof not applicable to single premium or term policies shall to that extent not be incorporated therein.

Grace period.

Section 298. **Grace period.** There shall be a provision that a grace period of thirty (30) days, or, at the option of the insurer, of one month of not less than thirty (30) days, or of four (4) weeks in the case of industrial life insurance policies the premiums for which are payable more frequently than monthly, shall be allowed within which the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force; but if a claim arises under the policy during such period of grace the amount of any premium due or overdue may be deducted from the policy proceeds.

Incontestability clause.

Section 299. **Incontestability.** There shall be a provision that the policy (exclusive of provisions relating to disability benefits or to additional benefits in the event of death by accident or accidental means) shall be incontestable, except for nonpayment of premiums, after it has been in force during the lifetime of the insured for a period of two (2) years from its date of issue.

Policy constitutes entire contract.

Section 300. **Entire contract.** There shall be a provision that the policy, or the policy and the application therefor if a copy of such application is endorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties, and if the application is so made a part of the policy, that all statements contained in the application shall, in the absence of fraud, be deemed representations and not warranties.

Payment in event of misstatement of age.

Section 301. **Misstatement of age.** There shall be a provision that if the age of the insured or of any other person whose age is considered in determining the premium has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

Dividends—participating policies.

Section 302. **Dividends.** (1) There shall be a provision in participating policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy provided the policy is in force and all premiums to that date are paid. Except as hereinafter provided, any dividend becoming payable shall at the option of the party entitled to elect such option be either:

Options.

(a) Payable in cash, or

(b) Applied to any one of such other dividend options as may be provided by the policy. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than thirty (30) days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of (a) above even though the policy provides that payment of such dividend is to be deferred for a specified period, provided such period does not exceed six (6) years from the date of apportionment and that interest will be added to such dividend at a specified rate. If a participating policy provides that the benefit under any paid-up nonforfeiture provision is to be participating, it may provide that any divisible surplus becoming payable or apportioned while the insurance is in force under such nonforfeiture provision shall be applied in the manner set forth in the policy.

Participating industrial life insurance policies.

(2) In participating industrial life insurance policies, in lieu of the provision required in subsection (1) above, there shall be a provision that, beginning not later than the end of the fifth policy year, the policy shall participate annually in the divisible surplus, if any, in the manner set forth in the policy.

Policy loan provision.

Section 303. **Policy loan.** There shall be a provision that after three (3) full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest not exceeding six percent (6%) per annum, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, provided that the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and

Loan value equals cash surrender value.

Nonpayment of interest.

shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six (6) months after application therefor. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect.

Option.

Exception—term policies.

This section shall not apply to term policies nor to term insurance benefits provided by rider or supplemental policy provisions, or to industrial life insurance policies.

Table of values.

Section 304. **Table of values.** There shall be a table showing in figures the loan value, if required under section 303, and the cash surrender values and nonforfeiture benefits in accordance with section 325 (2) (e), either during the first twenty (20) policy years or during the term of the policy, whichever is shorter.

Table of installments.

Section 305. **Table of installments.** In case the policy provides that the proceeds may be payable in installments which are determinable at issue of the policy, there shall be a table showing the amounts of the guaranteed installments.

Reinstatement provision.

Section 306. **Reinstatement.** There shall be a provision that unless:

(1) The policy has been surrendered for its cash surrender value, or

(2) Its cash surrender value has been exhausted, or

(3) The paid-up term insurance, if any, has expired, the policy will be reinstated at any time within three (3) years (or two (2) years in the case of industrial life insurance policies) from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears and the payment or reinstatement of any other indebtedness to the insurer

upon the policy, all with interest at a rate not exceeding six percent (6%) per annum compounded annually.

Payment of premiums.

Section 307. **Payment of premiums.** There shall be a provision relative to the payment of premiums.

Payment of claims.

Section 308. **Payment of claims.** There shall be a provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy and/or proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed two (2) months from the receipt of such proofs.

Designation and change of beneficiary—industrial policies.

Section 309. **Beneficiary, industrial policies.** An industrial life insurance policy shall have the name of the beneficiary designated thereon with a reservation of the right to designate or change the beneficiary after the issuance of the policy. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured. The policy may also provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within the period stated in the policy, which shall not be less than thirty (30) days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or dies before the insured, or is not legally competent to give a valid release, then the insurer may make any payment thereunder to the executor or administrator of the insured, or to any relative of the insured by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. The policy may also include a similar provision applicable to any other payment due under the policy.

Payment of policy.

Title of policy.

Section 310. **Title.** There shall be a title on the policy, briefly describing the same.

Effect of incontestability clause.

Section 311. **Excluded or restricted coverage.** A clause in any policy of life insurance providing that such policy shall be incontestable after a specified period shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions in the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

Standard provisions—annuity and pure endowment contracts.

Section 312. **Standard provisions — Annuity and pure endowment contracts.** (1) No annuity or pure endowment contract, other than reversionary annuities, survivorship annuities or group annuities and except as stated herein, shall be delivered or issued for delivery in this state unless it contains in substance each of the provisions specified in sections 313 to 318, inclusive, of this chapter. Any of such provisions not applicable to single premium annuities or single premium pure endowment contracts shall not, to that extent, be incorporated therein.

Exception—deferred annuities.

(2) This section shall not apply to contracts for deferred annuities included in or upon the lives of beneficiaries under, life insurance policies.

Grace period—annuities.

Section 313. **Grace period — Annuities.** In an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, there shall be a provision that there shall be a period of grace of one month, but not less than thirty (30) days, within which any stipulated payment to the insurer falling due after the first may be made, subject at the option of the insurer to an interest charge thereon at a rate to be specified in the contract but not exceeding six percent (6%) per annum for the number of days of grace elapsing before such payment, during which period of grace the contract shall continue in full force; but in case a claim arises under the contract on account of death prior to expiration of the period of grace before the overdue payment to the insurer or the deferred payments of the current contract year, if any, are made, the amount of such payments, with interest on any overdue payments, may be deducted from any amount payable under the contract in settlement.

Incontestability—annuities.

Section 314. **Incontestability — Annuities.** If any statements, other than those relating to age, sex and identity are required as a condition to issuing an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, and subject to section 316 of this chapter, there shall be a provision that the contract shall be incontestable after it has been in force during the lifetime of the person or of each of the persons as to whom such statements are required, for a period of two (2) years from its date of issue, except for nonpayment of stipulated payments to the insurer; and at the option of the insurer such contract may also except any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means.

Entire contract—annuities.

Section 315. **Entire contract — Annuities.** In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract shall constitute the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the contract when issued, a provision that the contract and the application therefor shall constitute the entire contract between the parties.

Payment in event of misstatement of age.

Section 316. **Misstatement of age or sex — Annuities.** In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that if the age or sex of the person or persons upon whose life or lives the contract is made, or of any of them, has been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or sex and that if the insurer shall make or has made any overpayment or overpayments on account of any such misstatement, the amount thereof, with interest at the rate to be specified in the contract but not exceeding six percent (6%) per annum, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract.

Dividends—annuities.

Section 317. **Dividends — Annuities.** If an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract.

Reinstatement—annuities.

Section 318. **Reinstatement — Annuities.** In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract may be reinstated at any time within one year from the default in making stipulated payments to the insurer, unless the cash surrender value had been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated with interest thereon at a rate to be specified in the contract but not exceeding six percent (6%) per annum payable annually, and in cases where applicable the insurer may also include a requirement of evidence of insurability satisfactory to the insurer.

Standard provisions—reversionary annuities.

Section 319. **Standard provisions — Reversionary annuities.** (1) Except as stated herein, no contract for a reversionary annuity shall be delivered or issued for delivery in this state unless it contains in substance each of the following provisions:

Option of insurer.

(a) Any such reversionary annuity contract shall contain the provisions specified in sections 313 through 317 except that under section 313 the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue payment in lieu of providing for deduction of such payments from an amount payable upon settlement under the contract.

Reinstatement on payment.

(b) In such reversionary annuity contracts there shall be a provision that the contract may be reinstated at any time within three (3) years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon condition that all overdue payments and any indebtedness to the insurer on account of the contract be paid, or, within the limits permitted by the then cash values of the contract, reinstated, with interest as to both payments and indebtedness at a rate to be specified in the contract but not exceeding six percent (6%) per annum compounded annually.

Exceptions.

(2) This section shall not apply to group annuities or to annuities included in life insurance policies, and any of such provisions not applicable to single premium annuities shall not to that extent be incorporated therein.

Limitations of liability—prohibited provisions.

Section 320. **Limitation of liability.** (1) No policy of life insurance shall be delivered or issued for delivery in this state if it contains any of the following provisions:

Contravening statute of limitations.

(a) A provision for a period shorter than that provided by statute within which an action at law or in equity may be commenced on such a policy.

Manner of death.

(b) A provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

Exceptions.

(i) Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval, or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

(ii) Death as a result of aviation or any air travel or flight;

(iii) Death as a result of a specified hazardous occupation or occupations;

(iv) Death while the insured is a resident outside continental United States and Canada; or

(v) Death within two (2) years from the date of issue of the policy as a result of suicide, while sane or insane.

Payment.

(2) A policy which contains any exclusion or restric-

tion pursuant to subsection (1) of this section shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the commissioners reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

Exceptions.

(3) This section shall not apply to industrial life insurance, group life insurance, disability insurance, reinsurance, or annuities, or to any provision in a life insurance policy relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

Favorable provisions.

(4) Nothing contained in this section shall prohibit any provision which in the opinion of the commissioner is more favorable to the policyholder than a provision permitted by this section.

Prohibited provisions—industrial life insurance.

Section 321. **Prohibited provisions, industrial life insurance.** No policy of industrial life insurance shall contain any of the following provisions:

Other insurance.

(1) A provision by which the insurer may deny liability under the policy for the reason that the insured has previously obtained other insurance from the same insurer.

Failure to disclose disease or treatment.

(2) A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within two years prior to the issuance of the policy, received institutional, hospital, medical or surgical treatment or attention and if the insured or claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk.

Prior rejection.

(3) A provision giving the insurer the right to declare the policy void because the insured has been rejected for insurance, unless such right be conditioned upon a showing by the insurer that knowledge of such rejection would have led to a refusal by the insurer to make such contract.

Effect of reinstatement, incontestability.

Section 322. **Incontestability, limitation of liability after reinstatement.** (1) A reinstated policy of life insurance or annuity contract may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement and with the same conditions and exceptions as the policy provides with respect to contestability after original issuance.

Limitation of liability.

(2) When any life insurance policy or annuity contract is reinstated, such reinstated policy or contract may exclude or restrict liability to the same extent that such liability might have been or was excluded or restricted when the policy or contract was originally issued, and such exclusion or restriction shall be effective from the date of reinstatement.

Policy settlements—right to hold proceeds.

Section 323. **Policy settlements.** Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it, upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries, and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy, in the event the policyholder has made no such agreement, the insurer shall have the power to hold the proceeds of the policy under an agreement with the beneficiaries. The insurer shall not be required to segregate the funds so held but may hold them as part of its general assets.

Indebtedness deducted from proceeds.

Section 324. **Indebtedness deducted from proceeds.** In determining the amount due under any life insurance policy heretofore or hereafter issued, deduction may be made of:

Unpaid premiums.

(1) Any unpaid premiums or installments thereof for the current policy year due under the terms of the policy, and of

Principal and interest.

(2) The amount of principal and accrued interest of any policy loan or other indebtedness against the policy then remaining unpaid.

Standard nonforfeiture life insurance.

Section 325. **Standard nonforfeiture law — Life insurance.** (1) This section shall be known as the standard nonforfeiture law.

Provisions.

(2) Nonforfeiture provisions—Life: In the case of policies issued on or after the operative date of this section as defined in subsection (11) of this section, no policy of life insurance, except as set forth in subsection (10) of this section, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

Paid up benefit.

(a) That in the event of default in any premium payment, after premiums have been paid for at least one full year, the insurer will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date of such value as may be hereinafter specified.

Cash surrender within 60 days of default.

(b) That upon surrender of the policy within sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance, and five (5) full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

Option.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty (60) days after the due date of the premium in default.

Cash surrender of paid-up policies.

(d) That if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance, or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

Statement of tables.

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

Statement of minimum values.

Alteration.

Statement of computation.

Statement of method.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Right to defer.

(3) Any of the provisions or portions thereof set forth in subdivisions (a) through (f) of the foregoing subsection (2) which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy.

Computation of cash surrender value in event of default—life.

(4) Cash surrender value—Life: Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (2) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

(a) The then present value of the adjusted premiums as defined in subsection (6) of this section, corresponding to premiums which would have fallen due on and after such anniversary, and

(b) The amount of any indebtedness to the insurer on account of or secured by the policy. Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid up by completion of all premium payments, or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (2), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(5) Paid-up nonforfeiture benefit—Life: Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the conditions that premiums shall have been paid for at least a specified period.

Computation of adjusted premium—life.

(6) The adjusted premium — Life: The adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(a) The then present value of the future guaranteed benefits provided for by the policy;

(b) Two percent (2%) of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with the duration of the policy;

(c) Forty percent (40%) of the adjusted premium for the first policy year;

(d) Twenty-five percent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less, provided, however, that in applying the percentages specified in subdivisions (c) and (d) above, no adjusted premiums shall be deemed to exceed four percent of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purposes of this subsection shall be the date as of which the rated age of the insured is determined.

Computation in case of insurance varying with duration of policy.

(7) In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of the preceding subsection (6) shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy for a varying amount of insurance issued on the life of a child under age ten (10), the equivalent uni-

form amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten (10).

Basis for calculation of adjusted premiums and present values.

(8) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1941 standard ordinary mortality table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated, at the option of the insurer with approval of the commissioner, according to an age younger than the actual age of the insured. Such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding three-and-one-half percent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty percent (130%) of the rates of mortality according to such applicable table, provided further that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

Calculation of values—life.

(9) Calculation of values—Life: Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (4), (5), (6), (7) and (8) of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the

provisions of subsection (4) of this section, additional benefits payable:

Additional benefits payable.

(a) In the event of death or dismemberment by accident or accidental means,

(b) In the event of total and permanent disability,

(c) As reversionary annuity or deferred reversionary annuity benefits,

(d) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, and

(e) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits,

Shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

Exceptions.

(10) Exceptions. This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen (15) years or less expiring before age 66 for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsections (6), (7) and (8) of this section is less than the adjusted premium so calculated on a policy issued at the same age and for the same initial amount of insurance for a term defined as follows: For ages at issue fifty (50) and under, the term shall be fifteen (15) years; thereafter, the term shall decrease one (1) year for each year of age beyond fifty (50).

Operative date.

(11) Operative date. After the effective date of the act by which this section was originally enacted, any insurer could have filed with the state auditor a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1948, with respect to the policies specified in the notice. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer

with respect to such policies), this section shall have become operative with respect to the policies specified in such notice thereafter issued by such insurer. As to all of its policies and contracts with respect to which an insurer makes no such election, the operative date of this section with respect to such policies and contracts for such insurer is January 1, 1948.

Nonforfeiture rights—policies issued prior to operative date.

Section 326. **Nonforfeiture rights, old policies.** (1) This section shall apply only to policies of life insurance issued prior to the operative date of section 325 (standard nonforfeiture law).

(2) In event of default in payment of any premium due on any policy, provided not less than three (3) full years' premiums shall have been paid, there shall be secured to the insured, without action on his part, either paid-up or extended insurance as specified in the policy, the net value of which shall be at least equal to the entire net reserve held by the insurer of such policy, less two and one-half percent (2½%) of the amount insured by the policy and dividend additions, if any, and less any outstanding indebtedness to the insurer on the policy at time of default. There shall be secured to the insured the right to surrender the policy to the insurer at its home office within one (1) month after date of default for cash value otherwise available for the purchase of the paid-up or extended insurance as aforesaid.

Prohibited policy plans.

Section 327. **Prohibited policy plans.** (1) No insurer shall issue for delivery or deliver in this state any life insurance policy or annuity contract issued under any plan for the segregation of policyholders into mathematical groups and providing benefits for a surviving policyholder of a group arising out of the death of another policyholder of such group, or under any other similar plan.

(2) No insurer shall issue for delivery or deliver in this state any life insurance policy or annuity contract providing benefits or values for surviving or continuing policyholders contingent upon the lapse or termination of the policies of other policyholders, whether by death or otherwise. This provision shall not be deemed to prohibit the payment or allowance of regular annual dividends or "savings" under participating forms of poli-

cies or contracts, nor prohibit the annual distribution to policyholders or beneficiaries of sums representing in part gains to the insurer from lapses, surrenders or mortality either in general or as resulting from particular classifications of policies.

CHAPTER 14 — GROUP LIFE INSURANCE

Section 328. **Group contracts must meet group requirements.**

Group contracts must meet requirements.

(1) No life insurance policy shall be delivered in this state insuring the lives of more than one individual unless to one of the groups as provided for in sections 329 through 333 of this chapter, and unless in compliance with the other applicable provisions of this chapter.

(2) Subsection (1) above, shall not apply to life insurance policies:

(a) Insuring only individuals related by blood, marriage or legal adoption; or

(b) Insuring only individuals having a common interest through ownership of a business enterprise, or a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or

(c) Insuring only individuals otherwise having an insurable interest in each other's lives.

Employee groups—policyholder.

Section 329. **Employee groups.** The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

Eligibility of employees.

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such af-

filiated corporations, proprietors or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation, by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership.

Payment of group premiums.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent (75%) of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contribution. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

Ten employees.

(3) The policy must cover at least ten (10) employees at date of issue.

Policy based on plan.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

Labor union groups—policyholder.

Section 330. **Labor union groups.** The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

Members of union.

(1) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

Limitations. Payment of premium.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy-five percent (75%) of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

25 members.

(3) The policy must cover at least twenty-five (25) members at date of issue.

Policy based on plan.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

Trustee groups—policyholders.

Section 331. **Trustee groups.** The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by two (2) or more employers or by one (1) or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

Eligibility.

(1) The persons eligible for insurance shall be all of

the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

Limitations—payment of premium.

(2) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured persons. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured persons specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy-five percent (75%) of the then eligible persons, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

Number of persons required.

(3) The policy must cover at date of issue at least one hundred (100) persons and not less than an average of five (5) persons per employer unit; and if the fund

is established by the members of an association of employers the policy may be issued if:

(a) Either

(i) The participating employers constitute at date of issue at least sixty percent (60%) of those employer members whose employees are not already covered for group life insurance, or

(ii) The total number of persons covered at date of issue exceeds six hundred (600); and

Policy requirement.

(b) The policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance.

Policy based on plan.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.

Public employee groups—policyholders.

Section 332. **Public employee groups.** The lives of a group of individuals may be insured under a policy issued to an incorporated city, town, or village, or an association or league of cities, towns or villages, an independent school district, state college or university, any association of state employees, and any association of state, county and city, town or village employees, and any combination of state, county, or city, town or village employees, and any department of the state or county government, which employer or association shall be deemed the policyholder, to insure the employees of any such incorporated city, town or village, of any such independent school district, of any such state college and university, or of any such department of the state or county government, or members of any association of state, county, or city, town or village employees, for the benefit of persons other than the policyholder subject to the following requirements:

Eligibility.

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may

provide that the term "employees" shall include retired employees.

Limitations— payment of premiums.

(2) The premium for the policy shall be paid by the policyholder, wholly from funds contributed by it as employer or partly from such funds and partly from funds contributed by the insured employees or wholly from funds contributed by the insured employees, except that:

Salary deductions.

(a) The employer may deduct from the employees' salaries the required contributions for the premiums when authorized in writing by the respective employees so to do; and

Funds for payment.

(b) The premium for the policy may be paid by the policyholder wholly or partly from funds contributed by any incorporated city, town or village policyholder when authorized by the charter of such city, town or village or as otherwise authorized by law.

Election— eligible employees.

(3) Such policy may be placed in force only if at least seventy-five percent (75%) of the eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required premium contributions and become insured thereunder.

Ten employees.

(4) The policy must cover at least ten (10) employees at date of issue.

"Employees" defined.

(5) A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

Debtor groups— policyholder.

Section 333. **Debtor groups.** The lives of a group of individuals may be insured under a policy issued to a creditor, who shall be deemed the policyholder, to insure the debtors of the creditor, subject to the following requirements:

Eligibility.

(1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable either (a) in installments, or (b) in one sum at the end of a period not in excess of eighteen months from the initial date of the debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or the purchase giving

rise to the indebtedness. The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control.

Limitations—payment of premiums.

(2) The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five percent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

Number of persons required.

(3) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred (100) persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five percent (75%) of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

Limitation—amount of insurance.

(4) The amount of insurance in the life of any debtor shall at no time exceed the amount owed by him to the creditor, or ten thousand dollars ($10,000), whichever is less. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of eighteen months, except that such insurance may be continued for an additional period not exceeding six

months in the case of default, extension or recasting of the loan.

Insurance payable to policyholder.

(5) The insurance shall be payable to the policyholder. Each payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

Credit union groups—policyholder.

Section 334. **Credit union group.** The lives of a group of individuals may be insured under a policy issued to a credit union organized pursuant to the laws of the State of Montana or the federal credit union act, which shall be deemed the policyholder, to insure eligible members for amounts of insurance not in excess of the share balance of each member, based upon some plan which will preclude individual selection, for the benefit of someone other than the credit union or its officials and subject to the following requirements:

Eligibility.

(1) The members eligible for insurance under the policy shall be all the members of the credit union who meet standard physical requirement conditions of the insurer, or all of any class or classes thereof determined by conditions pertaining to their age, or to membership in the credit union or both.

Limitations—payment of premiums.

(2) The premiums for the policy shall be paid by the policyholder, either wholly from the credit union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed only if at least seventy-five percent (75%) of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insured, elect to make the required contribution. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at least twenty-five (25) members at the date of issue.

25 members.

Section 335. **Limit as to amount.** No such policy of group life insurance may be issued to an employer, or to a labor union, or to the trustees of a fund established in whole or in part by an employer or a labor union, which provides term insurance on any person which together with any other term insurance under any group life insurance policy or policies issued to the employers of such person or to a labor union or labor unions of which such person is a member or to the trustees of a fund or funds established in whole or in part by such employer or employers or such labor union or labor unions, exceeds twenty thousand dollars ($20,000), unless one hundred and fifty percent (150%) of the annual compensation of such person from his employer or employers exceeds twenty thousand dollars ($20,000), in which event all such term insurance shall not exceed forty thousand dollars ($40,000) or one hundred and fifty percent (150%) of such annual compensation, whichever is the lesser.

Limitation—amounts of insurance.

Section 336. **Dependents' coverage.** Any group life policy issued under section 329 (employee groups), or 330 (labor union groups) or 331 (trustee groups) may be extended to insure the employees or members against loss due to the death of their spouses and minor children, or any class or classes thereof, subject to the following requirements:

Dependents' coverage may be provided.

(1) The premium for the insurance shall be paid by the policyholder, either from the employer's or union's funds or funds contributed by the employer or union, or from funds contributed by the insured employees or members, or from both. If any part of the premium is to be derived from funds contributed by the insured employees or members, the insurance with respect to spouses and children may be placed in force only if at least seventy-five percent (75%) of the then eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees or members, all eligible em-

Limitations—payment of premiums.

ployees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, must be insured with respect to their spouses and children.

Amounts of insurance based on plan.

(2) The amounts of insurance must be based upon some plan precluding individual selection either by the employees or members or by the policyholder, employer or union, and shall not exceed, with respect to any spouse or child, the amount shown in the following schedule:

Age of Family Member at Death	Maximum Amount of Insurance
Under 6 months	$ 100
6 months and under 2 years	200
2 years and under 3 years	400
3 years and under 4 years	600
4 years and under 5 years	800
5 years and over	1,000

Rights on termination—payment of premium.

(3) Upon termination of the insurance with respect to the members of the family of any employee or member by reason of the employee's or member's termination of employment, termination of membership in the class or classes eligible for coverage under the policy, or death, the spouse shall be entitled to have issued by the insurer, without evidence of insurability, an individual policy of life insurance, without disability or other supplementary benefits, providing application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one days after such termination, subject to the requirements of subdivisions (1), (2) and (3) of section 344 of this chapter. If the group policy terminates or is amended so as to terminate the insurance of any class of employees or members and the employee or member is entitled to have issued an individual policy under section 346 of this chapter, the spouse shall also be entitled to have issued by the insurer an individual policy, subject to the conditions and limitations provided above. If the spouse dies within the period during which he would have been entitled to have an individual policy issued in accordance with this provision, the amount of life insurance which he would have been entitled to have issued under such individual policy shall be payable as

a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

One certificate.

(4) Notwithstanding section 344 of this chapter, only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate.

Provisions required in group contracts.

Section 337. **Provisions required in group contracts.** No policy of group life insurance shall be delivered in this state unless it contains in substance the provisions set forth in sections 338 through 347 of this chapter or provisions which in the opinion of the commissioner are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder; except, however, that:

(1) Sections 343 to 347 inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor;

(2) The standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and

Nonforfeiture provision.

(3) If the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the commissioner is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies.

Grace period—group life.

Section 338. **Grace period.** The group life insurance policy shall contain a provision that the policyholder is entitled to a grace period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

Incontestability clause.

Section 339. **Incontestability.** The group life insurance policy shall contain a provision that the validity of the policy shall not be contested, except for nonpayment of premium, after it has been in force for two (2) years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two (2) years during such person's lifetime nor unless it is contained in a written instrument signed by him.

Applications—statements deemed representations.

Section 340. **Application; statements deemed representations.** The group life insurance policy shall contain a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary.

Insurability—evidence.

Section 341. **Insurability.** The group life insurance policy shall contain a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

Adjustment—misstatement of age.

Section 342. **Misstatement of age.** The group life insurance policy shall contain a provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

Payment of benefits provision.

Section 343. **Payment of benefits.** The group life insurance policy shall contain a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary as to all or any part of such sum living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding five hundred dollars ($500) to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

Individual certificate.

Section 344. **Certificate.** The group life insurance policy shall contain a provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in sections 345, 346 and 347.

Conversion on termination of eligibility.

Section 345. **Conversion on termination of eligibility.** The group life insurance policy shall contain a provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination, and provided further that:

Form of individual policy.

(1) The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

Amount of individual policy.

(2) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination, less the amount of any life insurance for which such person is or becomes eligible under any other group policy within thirty-one (31) days after such termination, provided that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this

provision, be included in the amount which is considered to cease because of such termination; and

Rate of premium.

(3) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date of the individual policy.

Conversion on termination of group policy.

Section 346. **Conversion on termination of policy.** The group life insurance policy shall contain a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five (5) years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by section 345, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of:

Amount of individual policy.

(1) The amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one (31) days after such termination, and

(2) Two thousand dollars ($2,000).

Payment in event of death pending conversion.

Section 347. **Death pending conversion.** The group life insurance policy shall contain a provision that if a person insured under the policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with section 345 or 346 and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

Right to notice of conversion rights.

Section 348. **Notice as to conversion right.** If any individual insured under a group life insurance policy hereafter delivered in this state becomes entitled under the terms of such policy to have an individual policy of life insurance issued to him without evidence of insurability, subject to making of application and payment of the first premium within the period specified in such policy, and if such individual is not given notice of the existence of such right at least fifteen (15) days prior to the expiration date of such period, then, in such event the individual shall have an additional period within which to exercise such right, but nothing herein contained shall be construed to continue any insurance beyond the period provided in such policy. This additional period shall expire fifteen (15) days next after the individual is given such notice, but in no event shall such additional period extend beyond sixty (60) days next after the expiration date of the period provided in such policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section.

"Employee life insurance" defined.

Section 349. ''**Employee life insurance**'' **defined.** ''Employee life insurance'' is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where such policies are issued on the lives of not less than five (5) employees at date of issue. Premiums for such policies shall be paid by the employer or the trustee of a fund established by the employer either wholly from the employer's funds, or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees.

Penalties.

Section 350. **Violations.** Violations of this chapter are subject to the penalties provided by section 17 (general penalty).

CHAPTER 15 —
DISABILITY INSURANCE POLICIES

Scope of chapter—disability insurance policies.

Section 351. **Scope of chapter**. Nothing in this chapter shall apply to or affect:

(1) Any policy of liability or workmen's compensation insurance with or without supplementary expense coverage therein.

(2) Any group or blanket policy.

(3) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to disability insurance as:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means, or as

(b) Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

(4) Reinsurance.

Required format of policy.

Section 352. **Scope, format of policy.** No policy of disability insurance shall be delivered or issued for delivery to any person in this state unless it otherwise complies with this code, and complies with the following:

Consideration.

(1) The entire money and other considerations therefor shall be expressed therein;

Time.

(2) The time when the insurance takes effect and terminates shall be expressed therein;

Insured.

(3) It shall purport to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policyholder, any two (2) or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen years and any other person dependent upon the policyholder;

Appearance of policy.

(4) The style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform

and not less than ten (10) point with a lower case unspaced alphabet length not less than one hundred and twenty (120) point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions);

Indemnity.

(5) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in sections 354 to 376, inclusive, of this chapter, shall be printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "exceptions," or "exceptions and reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

Identification.

(6) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof;

Limitation.

(7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

Required provisions.

Section 353. **Required provisions; captions — Omissions — Substitutions.** (1) Except as provided in subsection (2) below, each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in sections 354 to 365, inclusive, of this chapter, in the words in which the same appear; except, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision shall be preceded individually by the applicable caption shown, or, at the option of the insurer, by such appropriate individual or group captions or sub-captions as the commissioner may approve.

Inapplicable provisions.

(2) If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision and shall modify any inconsistent provision or part of a provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

Provision for changes.

Section 354. **Entire contract — Changes.** There shall be a provision as follows:

"Entire contract; changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions."

Provision— Time limit on certain defenses.

Section 355. **Time limit on certain defenses.** There shall be a provision as follows:

"Time limit on certain defenses: (1) After three years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such three-year period."

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial three-year period, nor to limit the application of sections 367 through 371 of this chapter in the event of misstatement with respect to age or occupation or other insurance).

Incontestability clause.

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (a) until at least age fifty (50) or, (b) in the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "incontestable":

"After this policy has been in force for a period of three years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application").

Insurability.

(2) No claim for loss incurred or disability (as defined in the policy) commencing after three years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy."

Grace period.

Section 356. **Grace period.** There shall be a provision as follows:

"Grace period: A grace period of . . . (insert a number not less than '7' for weekly premium policies, '10' for monthly premium policies and '31' for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force."

Notice of intention not to renew.

A policy in which the insurer reserves the right to refuse renewal shall have, at the beginning of the above provision,

"Unless not less than thirty days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted."

Reinstatement.

Section 357. **Reinstatement.** There shall be a provision as follows:

"Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth (45th) day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty (60) days prior to the date of reinstatement."

The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums:

(1) Until at least age fifty (50), or

(2) In the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue.

Written notice of claim.

Section 358. **Notice of claim.** There shall be a provision as follows:

"Notice of claim: Written notice of claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at . . . (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer."

Loss-of-time benefit.

In a policy providing a loss-of-time benefit which may be payable for at least two (2) years, an insurer may at its option insert the following between the first and second sentences of the above provision:

"Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six (6) months after having given notice of the claim, give to the insurer notice of continuance of the disability, except in the event of legal incapacity. The period of six (6) months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six (6) months preceding the date on which such notice is actually given."

Notice of continuance of disability.

Section 359. **Claim forms.** There shall be a provision as follows:

Duty of insurer to furnish claim forms.

"Claim forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made."

Section 360. **Proofs of loss.** There shall be a provision as follows:

Written proofs of loss.

"Proofs of loss: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety (90) days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety (90) days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one (1) year from the time proof is otherwise required."

Provision— time of payment of claims.

Section 361. **Time of payment of claims.** There shall be a provision as follows:

"Time of payment of claims: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment, will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid . . . (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof."

Payment of claims— to whom.

Section 362. **Payment of claims.** There shall be a provision as follows:

"Payment of claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured."

The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

"If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $................ (insert an amount which shall not exceed $1,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment."

"Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proof of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person."

Physical examination, autopsy.

Section 363. **Physical examination, autopsy.** There shall be a provision as follows:

"Physical examinations and autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law."

Time for legal actions.

Section 364. **Legal actions.** There shall be a provision as follows:

"Legal actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three (3) years after the written proof of loss is required to be furnished."

Change of beneficiary.

Section 365. **Change of beneficiary.** There shall be a provision as follows: "Change of beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change a beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy."

(The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option).

Optional policy provisions.

Section 366. **Optional policy provisions.** Except as provided in subsection (2) of section 353 of this chapter, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth in sections 367 to 376, inclusive, of this chapter unless such provisions are in the words in which the same appear in the applicable section, except that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

Approval by commissioner.

Provision—adjusted amounts in event of change of occupation.

Section 367. **Change of occupation.** There may be a provision as follows: "Change of occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

Adjustment—misstatement of age.

Section 368. **Misstatement of age.** There may be a provision as follows:

"Misstatement of age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age."

Excess of other insurance—return premium.

Section 369. **Other insurance in this insurer.** There may be a provision as follows:

"Other insurance in this insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for . . . (insert type of coverage or coverages) in excess of $............... (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate."

Or, in lieu thereof:

"Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies."

Insurance with other insurers—proportionment—provision of service or expense incurred basis.

Section 370. **Insurance with other insurers** (Provision of service or expense incurred basis). (1) There may be a provision as follows:

"Insurance with other insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the 'like amount' of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.''

Expense incurred benefits—optional provision—other valid coverage.

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 371 of this chapter there shall be added to the caption of the foregoing provision the phrase ''—Expense incurred benefits.'' The insurer may, at its option, include in this provision a definition of ''other valid coverage,'' approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provisions with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be ''other valid coverage'' of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage.''

Proportionment—insurance with other insurers.

Section 371. **Insurance with other insurers — Other benefits.**

(1) There may be a provision as follows:

''Insurance with other insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined.''

Other benefits—optional provision—other valid coverage.

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 370 of this chapter, there shall be added to the caption of the foregoing provision the phrase ''—Other benefits.'' The insurer may, at its option, include in this provision a definition of ''other valid coverage,'' approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be ''other valid coverage'' of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as ''other valid coverage.''

Liability based on relation of earnings to insurance.

Section 372. **Relation of earnings to insurance.** (1) There may be a provision as follows:

''Relation of earnings to insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of $200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.''

Optional provision—valid loss of time coverage.

(2) The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (a) until at least age 50, or (b) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of ''valid loss of time coverage,'' approved as to form by the commissioner, which definition shall be limited in subject-matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

Deduction—unpaid premiums.

Section 373. **Unpaid premiums.** There may be a provision as follows:

''Unpaid premiums: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.''

Section 374. **Conformity with state statutes.** There may be a provision as follows:

Amendment to conform with state statutes.

"Conformity with state statutes: Any provision of this policy which, on its effective date is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes."

Section 375. **Illegal occupation.** There may be a provision as follows:

Insurer not liable—illegal occupation.

''Illegal occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.''

Section 376. **Intoxicants and narcotics.** There may be a provision as follows:

Insurer not liable—intoxicants and narcotics.

''Intoxicants and narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.''

Section 377. **Renewal at option of insurer.** Disability insurance policies, other than accident insurance only policies, in which the insurer reserves the right to refuse renewal on an individual basis, shall provide in substance in a provision thereof or in an endorsement thereon or rider attached thereto that subject to the right to terminate the policy upon non-payment of premium when due, such right to refuse renewal may not be exercised so as to take effect before the renewal date occurring on, or after and nearest, each policy anniversary (or in the case of lapse and reinstatement, at the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement), and that any refusal of renewal shall be without prejudice to any claim originating while the policy is in force. (The parenthetic reference to lapse and reinstatement may be omitted at the insurer's option).

Renewal—option of insurer.

Optional.

Section 378. **Order of certain provisions.** The provisions which are the subject of sections 357 to 380, in-

Logical order of certain provisions.

clusive, of this chapter, or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided that the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

Third party ownership of policy.

Section 379. **Third party ownership.** The word "insured," as used in this chapter, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits, and rights provided therein.

Policy provisions—foreign or alien insurer.

Section 380. **Requirement of other jurisdictions.** (1) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this chapter and which is prescribed or required by the law of the state or country under which the insurer is organized.

Provisions—laws of other jurisdictions.

(2) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

Less favorable provisions prohibited.

Section 381. **Conforming to statute.** (1) No policy provision which is not subject to this chapter shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to this chapter.

Policies construed with statute.

(2) A policy delivered or issued for delivery to any person in this state in violation of this chapter shall be held valid but shall be construed as provided in this chapter. When any provision in a policy subject to this chapter is in conflict with any provision of this chapter, the rights, duties, and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this chapter.

Section 382. **Age limit.** If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

Age limit construed.

Age limit—misstatement.

Section 383. **Franchise disability insurance law.** Disability insurance on a franchise plan is hereby declared to be that form of disability insurance issued to:

Disability insurance—franchise plan defined.

(1) Five or more employees of any corporation, copartnership, or individual employer or any governmental corporation, agency or department thereof; or

(2) Ten or more members, employees or employees of members of any trade or professional association or of a labor union or of any other association having had an active existence for at least two (2) years where such association or union has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance;

Where such persons with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association for its members, or by some designated person acting on behalf of such employer, association or union. The term ''employees'' as used herein may be deemed to include the officers, managers and employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership.

"Employees" defined.

Penalties.

Section 384. **Violations.** Violations of this chapter are subject to the penalties provided by section 17 (general penalty).

CHAPTER 16 — GROUP AND BLANKET DISABILITY INSURANCE

Group disability insurance defined—eligibility.

Section 385. **Group disability insurance defined; eligible groups.** Group disability insurance is hereby declared to be that form of disability insurance covering groups of persons as defined below, with or without one or more members of their families or one or more of their dependents, or covering one or more members of the families or one or more dependents of such groups of persons, and issued upon the following basis:

Employers, trustees.

"Employees" defined.

Retired employees.

(1) Under a policy issued to an employer or trustees of a fund established by an employer, who shall be deemed the policyholder, insuring employees of such employer for the benefit of persons other than the employer. The term ''employees'' as used herein shall be deemed to include the officers, managers, and employees of the employer, the individual proprietor or partner if the employer is an individual proprietor or partnership, the officers, managers, and employees of subsidiary or affiliated corporations, the individual proprietors, partners and employees of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract, or otherwise. The term ''employees" as used herein may include retired employees. A policy issued to insure employees of a public body may provide that the term ''employees'' shall include elected or appointed officials. The policy may provide that the term ''employees'' shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

Associations, labor unions.

Retired employees.

(2) Under a policy issued to an association, including a labor union, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring members, employees, or employees of members of the association for the benefit of persons other than the association or its officers or trustees. The term "employees'' as used herein may include retired employees.

Trustees of fund—groups of employers or unions.

(3) Under a policy issued to the trustees of a fund established by two (2) or more employers in the same or related industry or by one or more labor unions or by one or more employers and one or more labor unions or by an association as defined in subdivision (2) above, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions or of such association, or employees of members of such association, for the benefit of persons other than the employers or the unions or such association. The term "employees" as used herein may include the officers, managers and employees of the employer, and the individual proprietor or partners if the employer is an individual proprietor or partnership. The term "employees" as used herein may include retired employees. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

"Employees" defined.

Retired employees.

Group life policyholders.

(4) Under a policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this state to insure any class or classes of individuals that could be insured under such group life policy.

Other groups.

(5) Under a policy issued to cover any other substantially similar group which, in the discretion of the commissioner, may be subject to the issuance of a group disability policy or contract.

Group disability policies.

(6) Any group disability policy which contains provisions for the payment by the insurer of benefits for expenses incurred on account of hospital, nursing, medical, or surgical services for members of the family or dependents of a person in the insured group may provide for the continuation of such benefit provisions, or any part or parts thereof, after the death of the person in the insured group.

Required provisions—group disability policies.

Section 386. **Required provisions.** Each such group disability insurance policy shall contain in substance the following provisions:

Statements deemed representations.

(1) A provision that, in the absence of fraud, all statements made by applicants or the policyholder or by an insured person shall be deemed representations and

not warranties, and that no statement made for the purpose of effecting insurance shall avoid such insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to such policyholder or to such person or his beneficiary.

Statements to individuals.

(2) A provision that the insurer will furnish to the policyholder for delivery to each employee or member of the insured group, a statement in summary form of the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit.

New employees.

(3) A provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

Group disability policy—direct payment of services.

Section 387. **Direct payment of hospital, medical services.** Any group disability policy may on request by the group policyholder provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

Blanket disability insurance defined.

Section 388. **Blanket disability insurance defined.** Blanket disability insurance is hereby declared to be that form of disability insurance covering groups of persons as enumerated in one of the following subdivisions:

Passengers.

(1) Under a policy or contract issued to any common carrier or to any operator, owner or lessee of a means of transportation, who or which shall be deemed the policyholder, covering a group defined as all persons or all persons of a class who may become passengers on such common carrier or such means of transportation.

Employees, dependents, guests.

(2) Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering all em-

ployees, dependents or guests, defined by reference to specified hazards incident to the activities or operations of the employer or any class of employees, dependents or guests similarly defined.

(3) Under a policy or contract issued to a school, or other institution of learning, camp or sponsor thereof; or to the head or principal thereof, who or which shall be deemed the policyholder, covering students or campers. Supervisors and employees may be included.

Students, campers.

(4) Under a policy or contract issued in the name of any religious, charitable, recreational, educational, or civic organization, which shall be deemed the policyholder, covering participants in activities sponsored by the organization.

Participants in activities sponsored by organization.

(5) Under a policy or contract issued to a sports team or sponsors thereof which shall be deemed the policyholder, covering members, officials and supervisors.

Sports participants.

(6) Under a policy or contract issued in the name of any volunteer fire department, first aid, or other such volunteer group, or agency having jurisdiction thereof, which shall be deemed the policyholder, covering all of the members of such fire department or group.

Fire department and volunteer groups.

(7) Under a policy or contract issued to cover any other risk or class of risks which, in the discretion of the commissioner may be properly eligible for blanket disability insurance. The discretion of the commissioner may be exercised on an individual risk basis or class of risks, or both.

Other risks.

Section 389. **Required provisions.** Any insurer authorized to write disability insurance in this state shall have the power to issue blanket disability insurance. No such blanket policy may be issued or delivered in this state unless a copy of the form thereof shall have been filed in accordance with section 271. Every such blanket policy shall contain provisions which in the opinion of the commissioner are at least as favorable to the policyholder and the individual insured as the following:

Required provisions—blanket disability policies.

(1) A provision that the policy and the application shall constitute the entire contract between the parties, and that all statements made by the policyholder shall.

Application and policy constitute contract.

in absence of fraud, be deemed representations and not warranties, and that no such statements shall be used in defense to a claim under the policy, unless it is contained in a written application.

Written notice of sickness or injury.

(2) A provision that written notice of sickness or of injury must be given to the insurer within twenty (20) days after the date when such sickness or injury occurred. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

Insurer to furnish forms.

(3) A provision that the insurer will furnish to the policyholder such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of fifteen (15) days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character and extent of the loss for which claim is made.

Written proof of loss.

(4) A provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within thirty (30) days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within ninety (90) days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to furnish such proof and that such proof was furnished as soon as was reasonably possible.

Time for payment of benefits.

(5) A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of due written proof of such loss, and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time will be paid not later than at the expiration of each

period of thirty (30) days during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof.

(6) A provision that the insurer at its own expense, shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy in case of death where it is not prohibited by law.

Examination of insured.

(7) A provision that no action at law or in equity shall be brought to recover under the policy prior to the expiration of sixty (60) days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action shall be brought after the expiration of three (3) years after the time written proof of loss is required to be furnished.

Time for legal action.

Section 390. **Application and certificates not required.** An individual application shall not be required from a person covered under a blanket disability policy or contract, nor shall it be necessary for the insurer to furnish each person a certificate.

Individual applications and certificates not required.

Section 391. **Insurable interest — Facility of payment.** All benefits under any blanket disability policy shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate; except, that if the person insured be a minor or mental incompetent, such benefits may be made payable to his parent, guardian, or other person actually supporting him; or if the entire cost of the insurance has been borne by the employer such benefits may be made payable to the employer. Provided, however, that the policy may provide that all or any portion of any indemnities provided by such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

Insurable interest— facility of payment.

CHAPTER 17 —
CREDIT LIFE AND DISABILITY INSURANCE

Purpose—liberal construction.

Section 392. **Purpose.** The purpose of this chapter is to promote the public welfare by regulating credit life insurance and credit disability insurance. Nothing in this chapter is intended to prohibit or discourage reasonable competition. The provisions of this chapter shall be liberally construed.

Title.

Section 393. **Short title.** This chapter may be cited as ''the model act for the regulation of credit life insurance and credit disability insurance."

Scope—credit life and credit disability insurance.

Section 394. **Scope of chapter.** All life insurance and all disability insurance sold in connection with loans or other credit transactions shall be subject to the provisions of this chapter except such insurance sold in connection with a loan or other credit transaction of more than five (5) years duration.

Definitions.

"Credit life insurance" defined.

Section 395. **Definitions.** For the purposes of this chapter: (1) ''Credit life insurance'' means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction;

"Credit disability insurance" defined.

(2) ''Credit disability insurance'' means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy;

"Creditor" defined.

(3) ''Creditor'' means the lender of money or vendor or lessor of goods, services, property, rights or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title or interest of such lender, vendor or lessor;

"Debtor" defined.

(4) ''Debtor'' means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction;

"Indebtedness" defined.

(5) ''Indebtedness'' means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

Forms of policies.

Section 396. **Forms of credit life insurance and credit disability insurance.** Credit life insurance and credit disability insurance shall be issued only in the following forms:

Individual policies—life.

(1) Individual policies of life insurance issued to debtors on the term plan;

Individual policies—disability.

(2) Individual policies of disability insurance issued to debtors on a term plan or disability provisions in individual life policies to provide such coverage:

Group policies—life.

(3) Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;

Group policies—disability.

(4) Group policies of disability insurance issued to creditors on a term plan insuring debtors, or disability provisions in group life policies to provide such coverage.

Amount of life insurance limited to amount of indebtedness.

Section 397. **Amount of credit life insurance and credit disability insurance.** (1) Credit life insurance: The amount of credit life insurance shall not exceed the indebtedness. Where indebtedness repayable in substantially equal installments is secured by an individual policy of credit life insurance the amount of insurance shall not exceed the approximate unpaid indebtedness on the date of death and, where secured by a group policy of credit life insurance shall not exceed the exact amount of unpaid indebtedness on such date. Except, that agricultural loans not exceeding one year may be written up to the amount of the loan commitment on a nondecreasing or level term plan.

Limit—amount of credit disability insurance.

(2) Credit disability insurance: The amount of periodic indemnity payable by credit disability insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of indebtedness and shall not exceed the original indebtedness divided by the number of periodic installments.

Term—maturity date—termination.

Section 398. **Term of credit life insurance and credit disability insurance.** The term of any credit life insurance or credit disability insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor; except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. The term of such insurance shall not extend more than fifteen (15) days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 402.

Individual policies and certificates required.

Section 399. **Provisions of policies and certificates of insurance; disclosure to debtors.** (1) All credit life insurance and credit disability insurance sold shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.

Additional required provisions.

(2) Each individual policy or group certificate of credit life insurance, and credit disability insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurer, and the identity by name or otherwise of the person or persons insured, the rate or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance, a description of the coverages including any exceptions, limitations or restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

Time of delivery of policy or certificate.

Section 400. **Delivery of policy or certificate.** (1) The individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.

Copy of application provisions.

(2) If the individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by

the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the amount of payment by the debtor separately in connection with credit life insurance and credit disability insurance coverage, and a brief description of the coverage provided or to be provided, shall be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for, or notice of proposed insurance shall refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement unless the information required by this section is prominently set forth therein. Upon approval of the application, if any, or acceptance of the insurance and within thirty (30) days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. The application or notice of proposed insurance shall state that, upon acceptance by the insurer, the insurance shall become effective as of the date the indebtedness is incurred.

All forms to be filed with commission.

Section 401. **Filing, approval and withdrawal of forms.** (1) All policies, certificates of insurance, notices of proposed insurance, applications for insurance, binders, endorsements and riders shall be filed with the commission of the state in which the policy is issued.

Commissioner may disapprove for cause.

(2) The commissioner may within thirty (30) days after the filing of all policies, certificates of insurance, notices of proposed insurance, applications for insurance, binders, endorsements and riders, in addition to other requirements of law, disapprove any such form if the table of premium rates charged or to be charged appears by reasonable assumptions to be excessive in relation to benefits or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of such policy.

Use of unapproved forms unlawful.

Hearing after notice.

(3) If the commissioner notifies the insurer that the form does not comply with this section, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within twenty (20) days after request in writing

by the insurer. No such policy, certificate of insurance, notice of proposed insurance, and no application, binder, endorsement or rider, shall be issued or used until the expiration of thirty (30) days after it has been so filed, unless the commissioner gives his prior written approval thereto.

Withdrawal of approval.

The commissioner may, at any time after a hearing, of which not less than twenty (20) days written notice was given to the insurer, withdraw his approval of any such form on any of such grounds.

Use of disapproved forms unlawful.

(5) It is not lawful for the insurer to issue such forms or use them after the effective date of such withdrawal of approval.

Judicial review.

(6) Any order or final determination of the commissioner under the provisions of this section shall be subject to judicial review.

Insurer must file rates.

Section 402. **Premiums and refunds.** (1) Each insurer issuing credit life insurance or credit disability insurance shall file with the commissioner its schedules of premium rates for use in connection with such insurance. Any insurer may revise such schedules from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy or credit disability insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner. The commissioner may require the filing of the schedule of premium rates for use in connection with and as a part of the specific policy filings as provided by section 401.

Provision—refund of unused premium.

Minimum refund.

(2) Each individual policy, group certificate or notice of proposed insurance of credit life insurance and credit disability insurance shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of premium due shall be paid or credited promptly to the person entitled thereto; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing refunds shall be filed with the commissioner.

(3) If a creditor requires a debtor to make a payment in connection with credit life insurance or credit disability insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

Duty of creditor—written notice.

Section 403. **Issuance of policies.** All policies of credit life insurance and credit disability insurance shall be delivered or issued for delivery in this state only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the commissioner.

Issuance of policies limited to authorized insurers.

Section 404. **Claims.** (1) All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

Report of claims.

Time for settlement.

(2) All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

Method—payment of claims.

(3) No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; except, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

Settlement, adjustment by whom.

Section 405. **Existing insurance — Choice of insurer.** When credit life insurance or credit disability insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this state.

Option of debtor—existing insurance.

Enforcement by commissioner.

Section 406. **Enforcement.** The commissioner may, after notice and hearing, issue such rules and regulations as he deems appropriate for the supervision of this chapter. Whenever the commissioner finds that there has been a violation of this chapter or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay thereof has been ordered by a court of competent jurisdiction.

Hearing after notice.

Order for compliance.

Judicial review.

Section 407. **Judicial review.** Any party to the proceeding affected by an order of the commissioner shall be entitled to judicial review by following the procedure set forth in section 44.

Penalties.

Section 408. **Penalties.** In addition to any penalty provided by law, any person who violates an order of the commissioner after it has became final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of Montana a sum not to exceed two hundred and fifty dollars ($250) which may be recovered in a civil action, except that if such violation is found to be wilful, the amount of such penalty shall be a sum not to exceed one thousand dollars ($1,000). The commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person guilty of such violation. Such order for suspension or revocation shall be subject to judicial review as provided in section 44.

Suspension, revocation of license.

CHAPTER 18 — PROPERTY INSURANCE CONTRACTS

Property insurance—measure of indemnity—replacement value.

Section 409. **Measure of the indemnity.** If there is no valuation in the policy, and unless a basis more favorable to the insured is provided for in the policy, the measure of indemnity in an insurance against fire is the expense, at the time that the loss is payable, of replacing the thing lost or injured, in the condition in which it was at the time of the injury; but a valuation, fraudulent in fact, entitles the insurer to rescind the contract.

Section 410. **Valued policy law.** Whenever any policy of insurance shall be written to insure any improvements upon real property in this state against loss by fire, tornado or lightning, and the property insured shall be wholly destroyed, without criminal fault on the part of the insured or his assigns, the amount of insurance written in such policy shall be taken conclusively to be the true value of the property insured, and the true amount of loss and measure of damages, and the payment of money as a premium for insurance shall be prima facie evidence that the party paying such insurance premium is the owner of the property insured; provided, that any insurance company may set up fraud in obtaining the policy as a defense to a suit thereon.

Valued policy law—Measure of indemnity—total amount for total loss.

Defense—fraud.

CHAPTER 19 — CASUALTY INSURANCE CONTRACTS

Section 411. **Waiver of defense of sovereign immunity required.** All contracts or policies of casualty insurance covering state-owned properties or state risks must contain therein as a part thereof an agreement on the part of the insurer waiving all right to raise the defense of sovereign immunity. No money shall be paid out of the state treasury to any person, firm or corporation, as a consideration or premium on any such policy or contract of casualty insurance unless the policy or contract contains such an agreement.

Provision—casualty insurance on state property—waiver of governmental immunity.

CHAPTER 20 — SURETY INSURANCE CONTRACTS

Section 412. **Rights of surety insurer.** A surety insurer authorized as such under this code shall have the power to become the surety on bonds and undertakings required by law, subject to all the rights and liabilities of private persons. This section shall not be deemed to limit in any way the powers, obligations and liabilities of such insurers as provided for in other provisions of this code.

Rights of authorized surety insurer.

Section 413. **May be sole surety on official bonds.** Whenever any bond, undertaking, recognizance, or other obligation is by law, or the charter, ordinance, rules or regulations of any municipality, board, body, organiza-

May be sole surety on official bonds.

tion or public officer, required or permitted to be made, given, tendered or filed, with surety or sureties, and whenever the performance of any act, duty or obligation, or the refraining from any act, is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty may be executed by a surety insurer qualified to act as surety or guarantor as in this code provided. Such execution by such insurer of such bond, undertaking, obligation, recognizance or guaranty shall be in all respects a full and complete compliance with every requirement of the law, charter, ordinance, rule or regulation, that such bond, undertaking, obligation, recognizance or guaranty shall be executed by one surety or by one or more sureties, or that such surety shall be a resident, or householder, or freeholder, or either or both, or possessed of any other qualifications; and all courts, judges, heads of departments, boards, bodies, municipalities, and public officers of every character shall accept and treat accordingly such bond, undertaking, obligation, recognizance or guaranty when so executed by such insurer, as conforming to and fully and completely complying with every such requirement of every such law, charter, ordinance, rule or regulation.

Effect of execution.

Release from liability.

Section 414. **Release from liability on official bonds.** A surety insurer may be released from its liability on a bond referred to in section 413 of this chapter upon the same terms and conditions as are by law prescribed for the release of individual sureties.

CHAPTER 21 — TITLE INSURANCE

Title insurance policy based on certified evidence of title.

Section 415. **Policy based on title evidence.** (1) No title insurance policy as to property in this state shall be issued by any insurer unless based upon evidence of the condition of title certified in writing as of the date of the policy by some person, firm, or corporation holding a certificate of authority issued under section 66-2111, Revised Codes of Montana, 1947, to engage in the title abstracting business in the county in which the property is located; except, that this provision shall not apply as to title insurance policies issued upon the basis of an opinion of an attorney, duly authorized to practice law in this state, as to the condition of the title following a review by such attorney of pertinent title records or abstracts, and issued through a licensed title insurance agent who was so licensed and was regularly procuring title insurance policies issued upon such basis up to the effective date of this code.

Violation—estoppel.

(2) An insurer issuing any policy in violation of this section is estopped, as a matter of law, to deny the validity of the policy as to any claim or demand of the insured or assigns arising thereunder.

Title insurance rates must be filed.

Section 416. **Rates filed with commissioner.** (1) Every title insurer shall file with the Commissioner a complete schedule of risk rates to be charged by it for title insurance as to property located in this state.

(2) No such rate shall be excessive, inadequate, or unreasonably discriminatory.

(3) No title insurer shall charge any rate for such insurance other than the applicable rate previously filed by it with the Commissioner.

Time for compliance.

(4) Title insurers lawfully transacting business in this state on the effective date of this code shall comply with the provisions of this section within ninety (90) days thereafter.

Duty of title insurer to establish guaranty fund.

Section 417. **Guaranty fund, investments of title insurer.** A title insurer shall establish and maintain the guaranty fund required under section 91 of this code, and may invest in necessary plant and equipment and in other investments as authorized under section 129.

CHAPTER 22 — ORGANIZATION AND CORPORATE PROCEDURES OF STOCK AND MUTUAL INSURERS

Organization, corporate procedures—stock and mutual insurers.

Section 418. **Scope of chapter.** This chapter shall apply only to domestic stock insurers and domestic mutual insurers transacting, or proposing to transact, insurance on the cash premium or legal reserve plan, except that sections 431 (membership in mutuals) and 449 (2) (non-assessable policies, mutual insurers) shall also apply to foreign and alien insurers.

"Stock" insurer defined.

Section 419. ''**Stock**'' **insurer defined.** A domestic ''stock'' insurer is an incorporated insurer with capital divided into shares and owned by its stockholders.

"Mutual" insurer defined.

Section 420. ''**Mutual**'' **insurer defined.** A domestic ''mutual'' insurer is an incorporated insurer without capital stock, and the governing body of which is elected by the policyholders.

Section 421. **Applicability of general corporation statutes.**

Applicable corporation laws apply.

The applicable laws of this state as to domestic corporations formed for profit shall apply as to domestic stock insurers and domestic mutual insurers, except where in conflict with the express provisions of this code and the reasonable implications of such provisions.

Incorporation.

Section 422. **Incorporation.** (1) This section applies to stock and mutual insurers hereafter incorporated in this state.

Incorporators.

(2) Incorporators. Five (5) or more individuals, none of whom are less than twenty-one (21) years of age, may incorporate a stock insurer; ten (10) or more of such individuals may incorporate a mutual insurer. At least a majority of the incorporators shall be citizens of the United States. At least a majority of the incorporators shall be residents of this state.

Articles of incorporation—purpose of corporation.

(3) Articles of incorporation. The incorporators shall execute articles of incorporation in quadruplicate and acknowledge their execution thereof in the same manner as provided by law for the acknowledgment of deeds. The articles of incorporation shall state the purpose for which the corporation is formed and shall show:

Name of corporation.

(a) The name of the corporation; if a mutual, the word ''mutual'' must be a part of the name. An alternative name or names may be specified for use in jurisdictions wherein conflict of name with that of another insurer or organization might otherwise prevent the corporation from being authorized to transact insurance therein.

Duration may be perpetual.

(b) The duration of its existence, which may be perpetual.

Kinds of insurance.

(c) The kinds of insurance, as defined in this code, which the corporation is formed to transact.

Stock corporation—capital stock—par value.

(d) If a stock corporation, its authorized capital stock, the number of shares of common stock into which divided, the par value of each such share, which par value shall be at least one dollar ($1). Shares without par value, or other than one class of voting common stock, shall not be authorized. The articles of incorporation may limit or deny present or future stockholders preemptive or preferential rights to acquire additional issues of the stock, or bonds, debentures or other obligations convertible into stock, of the corporation, subject to the constitution and laws of Montana fixing the required representation and proportion of outstanding capital stock required to be represented and voted, for specified action, at any and all corporate meetings, elections, votes or consent proceedings.

Permissive limitation.

(e) If a stock corporation, the extent, if any, to which shares of its stock are subject to assessment.

Assessment, if any.

(f) If a stock corporation, the number of shares subscribed, if any, by each incorporator.

Number of shares subscribed.

(g) If a mutual corporation, the maximum contingent liability of its members, other than as to nonassessable policies, for payment of losses and expenses incurred; such liability shall be stated in the articles of incorporation, but shall not be less than one (1) nor more than six (6) times the premium for the member's policy at the annual premium rate for a term of one (1) year.

Mutual corporation—maximum contingent liability of members.

(h) The minimum, not less than five (5), and the maximum, not more than twenty-one (21), number of directors who shall constitute the board of directors and conduct the affairs of the corporation; also, the names, addresses and terms of the members of the initial board of directors. The term of office of initial directors shall be for not more than one (1) year after the date of incorporation.

Number of directors.

(i) The name of the county, and the city, town or place within the county, in which its principal office or principal place of business is to be located in this state.

Principal place of business.

(j) Such other provisions, not inconsistent with law, deemed appropriate by the incorporators.

Other lawful provisions.

(k) The name and residence address of each incorporator, and the citizenship of each incorporator who is not a citizen of the United States.

Incorporators—name, address, citizenship.

Section 423. **Articles of incorporation, filing and approval.**

Filing and approval of articles.

(1) The incorporators of a proposed domestic insurer shall deliver the quadruplicate originals of the articles of incorporation to the Commissioner together with the filing fees therefor specified in section 45. The commissioner shall submit the quadruplicate originals of the proposed articles of incorporation to the attorney general for examination. If the attorney general finds that the articles comply with this chapter, and are not in conflict with the constitution and laws of the United States or of this state, he shall so certify and return such certificate and all sets of the articles to the commissioner.

Certification by attorney general.

Approval by commissioner.

(2) When the articles of incorporation have been approved by the attorney general, the commissioner shall also endorse his approval upon each set of the articles; except, that if the Commissioner finds that the proposed insurer would not be eligible for a certificate of authority under section 55 of this code (management and affiliations), he shall refuse to approve the articles of incorporation, and shall return them to the proposed incorporators together with a written statement of the reasons for such refusal. If approved by him, the Commissioner shall then forward the articles of incorporation with his approval endorsed thereon, together with the certificate of the attorney general, to the incorporators. The incorporators shall forthwith file one set of the articles of incorporation with the secretary of state, one set with the commissioner bearing the certification of the secretary of state, one set with the county clerk of the county wherein is to be located the corporation's principal place of business, and the remaining set of articles and the certificate of the attorney general shall be made a part of the corporation's record.

Filing of copies.

Disapproval by attorney general.

(3) If the attorney general finds that the proposed articles of incorporation do not comply with law, he shall refuse to approve the same, and shall return the quadruplicate sets thereof to the commissioner, together with a written statement of the reasons for his refusal to approve. The commissioner shall return all sets of the proposed articles of incorporation to the proposed incorporators together with the written statement of the attorney general.

Certificate of authority required to transact business.

(4) The corporation shall have legal existence as such upon the issuance of the certificate of incorporation by the secretary of state and the completion of the filings

referred to in subsection (2) above, but it shall not transact business as an insurer until it has qualified for and received from the commissioner a certificate of authority as provided in this code.

Copy as evidence.

(5) A copy of the certificate of incorporation, duly certified by the secretary of state, shall be admissible in all the courts of this state as prima facie evidence of due incorporation.

Procedure—amendment of articles.

Section 424. **Amendment of articles of incorporation.** (1) A domestic stock insurer may amend its articles of incorporation for any lawful purpose by written authorization of the holders of a majority of the voting power of its outstanding capital stock or by affirmative vote of such a majority voting at a lawful meeting of stockholders of which the notice given to stockholders included due notice of the proposal to amend.

(2) A domestic mutual insurer heretofore or hereafter formed may amend its articles of incorporation for any lawful purpose by affirmative vote of a majority of those of its members present or represented by proxy at a lawful meeting of its members of which the notice given members included due notice of the proposal to amend.

Filing—certificate of amendment.

(3) Upon adoption of such an amendment the insurer shall make in quadruplicate under its corporate seal a certificate (sometimes referred to as ''articles of amendment'') setting forth such amendment and the date and manner of the adoption thereof, which certificate shall be executed by the insurer's president or vice-president and secretary or assistant secretary and acknowledged by them before an officer authorized by law to take acknowledgments of deeds. The insurer shall deliver to the commissioner the quadruplicate originals of the certificate, together with the filing fee specified therefor in section 45. If he finds that the certificate and amendments comply with law, the commissioner shall endorse his approval upon each of the quadruplicate originals and return them to the insurer. The insurer shall forthwith file one set of such endorsed articles of amendment with the secretary of state, one set with the commissioner bearing the certification of the secretary of state, one set with the county clerk of the county in which is located the insurer's principal place of business, and retain the remaining

Approval by commissioner.

set in the corporate records. The amendment shall be effective when such filings have been completed.

Disapproval by commissioner.

(4) If the commissioner finds that the proposed amendment or certificate does not comply with the law, he shall not approve the same, and shall return the quadruplicate certificate of amendment to the insurer together with his written statement of reasons for nonapproval. The filing fee shall not be returnable.

Cause for disapproval.

Exchange of stock certificates.

(5) If an amendment of articles of incorporation would reduce the authorized capital stock of a stock insurer below the amount thereof then outstanding, the commissioner shall not approve the amendment if he has reason to believe that the interests of policyholders or creditors of the insurer would be materially prejudiced by such reduction. If any such reduction of capital stock is effectuated the insurer may require return of the original certificates of stock held by each stockholder for exchange for new certificates for such number of shares as such stockholder is then entitled in the proportion that the reduced capital bears to the amount of capital stock outstanding as of immediately prior to the effective date of such reduction.

Qualifications—mutual insurer.

Section 425. **Initial qualifications—Domestic mutuals.** (1) When newly organized, a domestic mutual insurer may be authorized to transact any one of the kinds of insurance listed in the schedule contained in subsection (2) of this section.

Deposit.

(2) When applying for an original certificate of authority, the insurer must be otherwise qualified therefor under this code, and must have received and accepted bona fide applications as to substantial insurable subjects for insurance coverage of a substantial character of the kind of insurance proposed to be transacted, must have collected in cash the full premium therefor at a rate not less than that usually charged by stock insurers for comparable coverages, must have surplus funds on hand and deposited as of the date such insurance coverages are to become effective, or, in lieu of such applications, premiums and surplus, may deposit surplus, all in accordance with that part of the following schedule which applies to the one kind of insurance the insurer proposes to transact:

Schedules—deposit of surplus.

(a) Kind of insurance	(b) Minimum No. of applicants accepted	(c) Minimum No. of subjects covered	(d) Minimum premium collected	(e) Minimum amount of insurance each subject	(f) Maximum amount of insurance each subject (v)	(g) Minimum surplus funds deposited (vi)	(h) Deposit of surplus in lieu of (vi)
Life (i)	500	500	annual	$1,000	$ 2,500	$ 50,000	$100,000
Disability (ii)	500	500	quarterly	$ 10 (weekly indem.)	$ 25 (weekly indem.)	$ 50,000	$100,000
Property (iii)	100	250	annual	$1,000	$ 3,000	$100,000	$200,000
Casualty (iv)	250	500	annual	$1,000	$10,000	$150,000	$200,000
With workmen's compensation	250	1,500	quarterly	$1,000	$10,000	$200,000	$300,000

Limitations—deposit schedule.

The following provisos are respectively applicable to the foregoing schedule and provisions as indicated by like roman numerals appearing in such schedule:

(i) No group insurance or term policies for terms of less than ten (10) years shall be included.

(ii) No group, blanket or family plans of insurance shall be included. In lieu of weekly indemnity a like premium value in medical, surgical and hospital benefits may be provided. Any accidental death or dismemberment benefit provided shall not exceed twenty-five hundred dollars ($2,500).

(iii) Only insurance of the owner's interest in real property may be included.

(iv) Must include insurance of legal liability for bodily injury and property damage, to which the maximum and minimum insured amounts apply.

(v) The maximums provided for in this column (f) are net of applicable reinsurance.

(vi) The deposit of surplus in the amount specified in columns (g) and (h) must thereafter be maintained unimpaired. The deposit is subject to the provisions of chapter 7 of this code (administration of deposits).

Surety bond of mutual insurer required.

Section 426. **Formation of mutual insurer — Bond.** (1) Before soliciting any applications for insurance required under section 425 as qualification for the original certificate of authority, the incorporators of the proposed insurer shall file with the commissioner a corporate surety bond in the penalty of fifteen thousand dollars ($15,000), in favor of the state and for the use and benefit of the state and of applicant members and creditors of the corporation. The bond shall be conditioned as follows:

Bond conditions.

(a) For the prompt return to applicant members of all premiums collected in advance;

(b) For payment of all indebtedness of the corporation; and

(c) For payment of costs incurred by the state in event of any legal proceedings for liquidation or dissolution of the corporation, all in the event the corporation fails to complete its organization and secure a certificate of authority within one year from after the date of its certificate of incorporation.

Deposit in lieu of bond.

(2) In lieu of such bond, the incorporators may deposit with the commissioner fifteen thousand dollars ($15,000) in cash or United States government bonds, negotiable and payable to the bearer, with a market value at all times of not less than fifteen thousand dollars, ($15,000) to be held in trust upon the same conditions as required for the bond.

Bond deposit—release.

(3) Any such bond filed or deposit or remaining portion thereof held under this section shall be released and discharged upon settlement and termination of all liabilities against it.

Required provisions applications.

Section 427. **Applications for insurance in formation of mutual insurer.** (1) Upon receipt of the commissioner's approval of the bond or deposit as provided in section 426, the directors and officers of the proposed domestic mutual insurer may commence solicitation of such requisite applications for insurance policies as they may accept, and may receive deposits of premiums thereon.

(2) All such applications shall be in writing signed by the applicant, covering subjects of insurance resident, located or to be performed in this state.

(3) All such applications shall provide that:

(a) Issuance of the policy is contingent upon the insurer qualifying for and receiving a certificate of authority:

(b) No insurance is in effect unless and until the certificate of authority has been issued; and

(c) The prepaid premium or deposit, and membership or policy fee, if any, shall be refunded in full to the applicant if organization is not completed and the certificate of authority is not issued and received by the insurer before a specified reasonable date which date shall be not later than one year after the date of the certificate of incorporation.

(4) All qualifying premiums collected shall be in cash.

Solicitations by licensed agents.

(5) Solicitation for such qualifying applicants for insurance shall be by licensed agents of the corporation, and the commissioner shall, upon the corporation's application therefor, issue temporary agent's licenses expiring on the date specified pursuant to subdivision (c) above to individuals qualified as for a resident agent's license except as to the taking or passing of an examination. The commissioner may suspend or revoke any such license for any of the causes and pursuant to the same procedures as are applicable to suspension or revocation of licenses of agents in general under chapter 8 of this code.

Trust fund.

Written trust agreement.

Section 428. **Formation of mutuals — Trust deposit of premiums — Issuance of policies.** (1) All sums collected by a domestic mutual corporation as premiums or fees on qualifying applications for insurance therein shall be deposited in trust in a bank or trust company in this state under a written trust agreement consistent with this section and with section 427 (3) (c). The corporation shall file an executed copy of such trust agreement with the commissioner.

Funds of insurer after issue of certificate of authority.

(2) Upon issuance to the corporation of a certificate of authority as an insurer for the kind of insurance for which such applications were solicited, all funds so held in trust shall become the funds of the insurer, and the insurer, shall thereafter in due course issue and deliver its policies for which premiums had been paid and accepted. The insurance provided by such policies shall be effective as of the date of the certificate of authority or thereafter as provided by the respective policies.

Corporate powers cease on failure to qualify.

Section 429. **Formation of mutuals — Failure to qualify.** If the proposed domestic insurer fails to complete its organization and to secure its original certificate of authority within one year from and after date of its certificate of incorporation, its corporate powers shall cease, and the commissioner shall return or cause to be returned to the persons entitled thereto all advance deposits or payments of premiums held in trust under section 428.

Authority to transact additional kinds of insurance.

Section 430. **Additional kinds of insurance, mutuals.** A domestic mutual insurer, after being authorized to transact one kind of insurance, may be authorized by the commissioner to transact such additional kinds of insurance as are permitted under section 51, while otherwise in compliance with this code and while maintaining unimpaired surplus funds in an amount not less than the amount of paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance, subject further to the additional expendable surplus requirements of section 53 applicable to such a stock insurer.

Membership in mutuals. Policyholders.

Section 431. **Membership in mutuals.** (1) Each policyholder of a domestic mutual insurer, other than of a reinsurance contract, is a member of the insurer with all rights and obligations of such membership, and the policy shall so specify.

Other members.

(2) Any person, government or governmental agency, state or political subdivision thereof, public or private corporation, board, association, firm, estate, trustee or fiduciary may be a member of a domestic, foreign, or alien mutual insurer. Any officer, stockholder, trustee or legal representative of any such corporation, board, association or estate may be recognized as acting for or on its behalf for the purpose of such membership, and shall not be personally liable upon any contract of insurance for acting in such representative capacity.

Domestic corporations as members.

(3) Any domestic corporation may participate as a member of a mutual insurer as an incidental purpose for which such corporation is organized, and as much granted as the rights and powers expressly conferred.

By laws of mutuals.

Section 432. **Bylaws of mutual.** (1) A domestic mutual insurer shall have bylaws for the governing of its affairs. The initial board of directors of the insurer shall adopt original bylaws, subject to the approval of the insurer's members at the next succeeding meeting. The members shall have power to make, modify and revoke bylaws.

Provisions required—voting power.

(2) The bylaws shall provide:

(a) That each member is entitled to one vote upon each matter coming to a vote at meetings of members; or to more votes in accordance with a reasonable classification of members as set forth in the bylaws and based upon the amount of insurance in force, number of policies held or upon the amount of the premiums paid by such member, or upon other reasonable factors. A member shall have the right to vote in person or by his written proxy. No such proxy shall be made irrevocable or for longer than a reasonable period of time;

Election of directors.

(b) For election of directors by the members, and the number, qualifications, terms of office and powers of directors;

Meetings.

(c) The time, notice, quorum, and conduct of annual and special meetings of members and voting thereat. The bylaws may provide that the annual meeting shall be held at a place, date and time to be set forth in the policy and without giving other notice of such meeting;

Corporate officers.

(d) The number, designation, election, terms and powers and duties of the respective corporate officers;

Corporate funds.

(e) For deposit, custody, disbursement and accounting as to corporate funds;

Management.

(f) For any other reasonable provisions customary, necessary or convenient for the management or regulation of its corporate affairs.

Majority vote.

(3) No provision in the bylaws for determining a quorum of members at any meeting thereof of less than a majority of all the insurer's members shall be effective unless approved by the commissioner. This subsection shall not effect any other provision of law requiring vote of a larger percentage of members for a specified purpose.

Duty to file bylaws.

(4) The insurer shall promptly file with the commissioner a copy, certified by the insurer's secretary, of its bylaws and of every modification thereof or addition thereto. The commissioner shall disapprove any bylaw provision deemed by him to be unlawful, unreasonable, inadequate, unfair or detrimental to the proper interests or protection of the insurer's members or any class thereof. The insurer shall not, after receiving written notice of such disapproval and during the existence thereof, effectuate any bylaw provision so disapproved.

Bylaws of stock insurers—authority to modify.

Section 433. **Bylaws of stock insurer; modification.** Any bylaw so adopted at any meeting of stockholders of a domestic insurer shall not be modified or revoked except by the stockholders at a subsequent meeting unless the bylaws as adopted or amended by the stockholders grants authority to the board of directors to revoke or modify bylaw provisions; but the board of directors shall not so revoke or modify any bylaw relating to the qualifications, election, terms, or compensation of directors, or to the calling or notice of meetings of stockholders. Any revocation or modification of bylaws made by the directors under this provision shall be presented at the next following meeting of stockholders for the information of the stockholders.

Section 434. **Meetings of stockholders or members.** **Meetings.**

Place. (1) Meetings of stockholders or members of a domestic insurer shall be held in the city or town of its principal office or place of business in this state.

Notice. (2) No meeting of stockholders or members shall amend the insurer's articles of incorporation unless the proposal so to amend was included in the notice of the meeting.

Annual meeting. (3) Each insurer shall, during the first six (6) months of each calendar year, hold the annual meeting of its stockholders or members, to fill vacancies existing or occurring in the board of directors, receive and consider reports of the insurer's officers as to its affairs, and transact such other business as may properly be brought before it. **Notice.** Not less than twenty (20) days notice shall be given of such meeting in the manner provided in the bylaws, except where notice of the annual meeting of a mutual insurer is contained in its policies.

Special meetings. (4) Special meetings of the stockholders or members may be called at any time for any purpose by the board of directors, **Notice.** upon not less than ten days notice as provided in the bylaws. The notice shall state the purpose of the meeting, and no business shall be transacted at the meeting of which notice was not so given.

Who may call meetings. (5) If more than fifteen (15) months are allowed to elapse without an annual stockholders' or members' meeting being held, any stockholder or member may call such a meeting to be held. At any time, upon written request of any director, or of any stockholders or members holding in the aggregate one-fifth of the voting power of all stockholders or members, it shall be the duty of the secretary to call a special meeting of stockholders or members to be held at such time as the secretary may fix, not less than ten (10) nor more than thirty (30) days after the receipt of the request. If the secretary fails to issue such call, the director, stockholders or members making the request may do so.

Quorum.

(6) A stockholders' or members' meeting duly held can be organized for the transaction of business whenever a quorum is present. Except as otherwise provided by law or the articles of incorporation:

Majority voting power constitutes quorum.

(a) The presence, in person or by proxy, of the holders of a majority of the voting power of all stockholders or of all members shall constitute a quorum;

Withdrawal from meeting.

(b) The stockholders or members present at a duly organized meeting can continue to do business until adjournment, notwithstanding the withdrawal of enough stockholders or members to leave less than a quorum;

Temporary election.

(c) If any necessary officer fails to attend such meeting, any stockholder or member present may be elected to act temporarily in lieu of any such absent officer;

Adjournment.

(d) If a meeting cannot be organized because a quorum has not attended, those present may adjourn the meeting to such time as they may determine, but in the case of any meeting called for the election of any director the adjournment must be to the next day and those who attend the second of such adjourned meetings, although less than a quorum as fixed in this section or in the articles of incorporation, shall nevertheless constitute a quorum for the purpose of electing any director; and

New notice not required.

(e) An annual or special meeting of stockholders or members may be adjourned to another date without new notice being given.

Proxies.

Section 435. **Proxies.** (1) Every proxy of a stockholder of an insurer, unless coupled with an interest, shall be revocable at will and this provision cannot be waived. The validity of every unrevoked proxy shall cease eleven (11) months after the date of its execution unless some other definite period of validity is expressly provided therein, but in no event shall a proxy, unless

Limitation on validity.

coupled with an interest, be voted on after three (3) years from the date of its execution.

Revocation.

(2) The revocation of a proxy shall not be effective until notice thereof has been given to the secretary of the insurer.

Penalties—corrupt practices.

Section 436. **Corrupt practices — Penalty.** No person shall buy or sell or barter a vote or proxy, relative to any meeting of stockholders or members of an insurer, or engage in any corrupt or dishonest practice in or relative to the conduct of any such meeting. Violation of this section shall be punishable as provided in section 17 of this code.

Number of directors.

Section 437. **Directors; number, election.** (1) The affairs of every domestic insurer shall be managed by the number of directors fixed in the insurer's bylaws, which shall not be less than five (5) nor more than twenty-one (21) directors.

Election.

(2) Directors must be elected from and by the members or stockholders of a domestic insurer, except as provided in section 438 of this chapter, at such time and place, and for such terms, not exceeding three (3) years, as may be provided in the insurer's bylaws.

Term.

(3) The term of a director shall extend until his successor has been elected and has qualified.

Participation of policyholders in election of directors.

Section 438. **Participation of policyholders in election of directors of stock insurer.** The bylaws of a domestic stock life insurer may provide a plan for its policyholders to participate with stockholders in the election of its directors.

Officers' bonds—mutual insurers.

Section 439. **Bond of officers of mutual.** (1) The president, secretary and treasurer of every mutual insurer shall each file with the commissioner and thereafter maintain in force so long as he is such an officer, a fidelity bond in the sum of ten thousand dollars ($10,000) issued by an authorized corporate surety in favor of the insurer. In lieu of individual bonds, all such officers may be covered under a blanket bond for the same respect amounts, and which blanket bond shall likewise be filed with the commissioner.

Payment of bond premium.

(2) The premium for the bond shall be payable by the insurer.

Notice—cancellation of bond.

(3) No such bond shall be subject to cancellation except upon written notice to both the insurer and the commissioner, delivered not less than thirty (30) days in advance of the effective date of such cancellation.

Bonds—other officers.

(4) The insurer shall provide for the bonding by authorized corporate surety of all other officers in any way responsible for the handling of the funds of the insurer.

Limitation on bonds.

(5) This section shall not be deemed to limit the amount of bonded protection which the insurer may carry as to any officer.

Duties of officers and directors handling funds.

Section 440. **Prohibited pecuniary interest of officials.** (1) Any officer or director, or any member of any committee or an employee of a domestic insurer who is charged with the duty of investing or handling the insurer's funds shall not deposit or invest such funds except in the insurer's corporate name; shall not borrow the funds of such insurer; shall not be pecuniarily interested in any loan, pledge of deposit, security, investments, sale, purchase, exchange, reinsurance, or other similar transaction or property of such insurer except as a stockholder or member; shall not take or receive to his own use any fee, brokerage, commission, gift, or other consideration for or on account of any such transaction made by or on behalf of such insurer.

Guarantee prohibited.

(2) No insurer shall guarantee any financial obligation of any of its officers or directors.

Officers, directors may be policyholders.

(3) This section shall not prohibit such a director or officer, or member of a committee or employee from becoming a policy holder of the insurer and enjoying the usual rights so provided for its policyholders.

Commissioner may define exceptions to prohibitions.

(4) The commissioner may, by regulations from time to time, define and permit additional exceptions to the prohibition contained in subsection (1) of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the insurer, or to a corporation or firm in which a director is interested, for necessary services performed

or sales or purchases made to or for the insurer in the ordinary course of the insurer's business and in the usual private professional or business capacity of such director or such corporation or firm.

Approval of exclusive management and agency contracts.

Section 441. **Management and exclusive agency contracts.** (1) No domestic insurer shall make any contract whereby any person is granted or is to enjoy in fact the management of the insurer to the substantial exclusion of its board of directors, or to have the controlling or pre-emptive right to produce substantially all insurance business for the insurer, unless the contract is filed with and approved by the commissioner. The contract shall be deemed approved unless disapproved by the commissioner within twenty (20) days after date of filing, subject to such reasonable extension of time as the commissioner may require by notice given within such twenty (20) days. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor.

Filing.

Disapproval for cause.

(2) The commissioner shall disapprove any such contract if he finds that it:

(a) Subjects the insurer to excessive charges; or

(b) Is to extend for an unreasonable length of time; or

(c) Does not contain fair and adequate standards of performance; or

(d) Contains other inequitable provision or provisions which impair the proper interests of stockholders or members of the insurer.

Home office and records.

Section 442. **Home office and records; penalty for unlawful removal of records.** (1) Every domestic insurer shall have and maintain its principal place of business and home office in this state, and shall keep therein complete records of its assets, transactions, and affairs in accordance with such methods and systems as are customary or suitable as to the kind or kinds of insurance transacted.

Assets.

(2) Every domestic insurer shall have and maintain its assets in this state, except as to:

Property outside state.

(a) Real property and personal property appurtenant thereto lawfully owned by the insurer and located outside this state, and

Branch office property.

(b) Such property of the insurer as may be customary, necessary, and convenient to enable and facilitate the operation of its branch offices and "regional home offices" located outside this state as referred to in subsection (4) below.

Penalty for unlawful removal.

(3) Removal of all or a material part of the records or assets of a domestic insurer from this state except pursuant to a plan of merger or consolidation approved by the commissioner under this code, or for such reasonable purposes and periods of time as may be approved by the commissioner in writing in advance of such removal, or concealment of such records or assets or material part thereof from the commissioner, is prohibited. Any person who removes or attempts to remove such records or assets or such material part thereof from the home office or other place of business or of safekeeping of the insurer in this state with the intent to remove the same from this state, or who conceals or attempts to conceal the same from the commissioner, in violation of this subsection, shall upon conviction thereof be guilty of a felony, punishable by a fine of not more than ten thousand dollars ($10,000) or by imprisonment in the penitentiary for not more than five (5) years, or by both such fine and imprisonment in the discretion of the court. Upon any removal or attempted removal of such records or assets or upon retention of such records or assets or material part thereof outside this state, beyond the period therefor specified in the commissioner's consent under which the records were so removed thereat, or upon concealment of or attempt to conceal records or assets in violation of this section, the commissioner may institute delinquency proceedings against the insurer pursuant to the provisions of chapter 26 of this code.

Delinquency proceedings.

(4) This section shall not be deemed to prohibit or prevent an insurer from:

Officers in other jurisdictions.

(a) Establishing and maintaining branch offices or "regional home offices" in other states where necessary or convenient to the transaction of its business and keeping therein the detailed records and assets customary and necessary for the servicing of its insurance in force and affairs in the territory served by such an office, as long as such records and assets are made readily available at such office for examination by the commissioner at his request.

Funds in other jurisdictions.

(b) Having, depositing or transmitting funds and assets of the insurer in or to jurisdictions outside of this state as reasonably and customarily required in the regular course of its business.

Deposits.

(c) Making deposits under custodial arrangements as provided by section 135 (3) of this code.

Vouchers for expenditures.

Section 443. **Vouchers for expenditures.** (1) No insurer shall make any disbursement of one hundred dollars ($100) or more, unless evidenced by a voucher correctly describing the consideration for the payment and supported by a check or receipt endorsed or signed by or on behalf of the person receiving the money.

Required provisions.

(2) If the disbursement is for services and reimbursement, the voucher shall describe the services and expenditures.

(3) If the disbursement is in connection with any matter pending before any legislature or public body or before any public official, the voucher shall also correctly describe the nature of the matter and of the insurer's interest therein.

Affidavit for voucher.

(4) If a voucher cannot be obtained, the expenditure referred to in subsection (1) above shall be evidenced by an affidavit in which is set forth the character and object of the expenditure and the reasons for not obtaining a voucher therefor.

Agreements not to sell property prohibited.

Section 444. **Agreement not to sell property prohibited.** No insurer shall enter into any agreement to withhold from sale any of its property. Disposition of an insurer's property shall be at all times within the control of its board of directors.

Solicitation of insurance—other states.

Section 445. **Solicitations in other states.** (1) No domestic insurer shall knowingly solicit insurance business in any reciprocating state in which it is not then licensed as an authorized insurer.

Advertising permitted.

(2) This section shall not prohibit advertising through publication and radio, television and other broadcasts originating outside such reciprocating state, if the insurer is licensed in a majority of the states in which such advertising is disseminated, and if such advertising is not specifically directed to residents of such reciprocating state.

Reciprocating states.

(3) This section shall not prohibit insurance, covering persons or risks located in a reciprocating state, under contracts solicited and issued in states in which the insurer is then licensed. Nor shall it prohibit insurance effectuated by the insurer as an unauthorized insurer in accordance with the laws of the reciprocating state.

"Reciprocating" defined.

(4) A ''reciprocating'' state, as used herein, is one under the laws of which a similar prohibition is imposed upon and enforced against insurers domiciled in that state.

Violation.

(5) The commissioner shall suspend or revoke the certificate of authority of a domestic insurer found by him, after a hearing, to have violated this section.

Contingent liability—mutual members.

Section 446. **Contingent liability of mutual members.** (1) Each member of a domestic mutual insurer shall, except as otherwise hereinafter provided with respect to nonassessable policies, have a contingent liability, pro rata and not one for another, for the discharge of its obligations, which contingent liability shall be expressed in the policy and be in such maximum amount as is specified in the insurer's articles of incorporation.

Termination.

(2) Termination of the policy of any such member shall not relieve the member of contingent liability for his proportion, if any, of the obligations of the insurer which accrued while the policy was in force.

Not an asset.

(3) Unrealized contingent liability of members does not constitute an asset of the insurer in any determination of its financial condition.

Levy of assessment.

Section 447. **Levy of contingent liability.** (1) If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it by this code for authority to transact the kinds of insurance being transacted, and the deficiency is not cured from other sources, its directors shall levy an assessment only upon its members who held policies providing for contingent liability at any time within the twelve (12) months preceding the date notice of such assessment was mailed to them, and such members shall be liable to the insurer for the amount so assessed.

Amount of assessment.

(2) The assessment shall be for such an amount as is required to cure such deficiency and to provide a reasonable amount of working funds above such minimum amount of surplus, but such working funds so provided shall not exceed five percent (5%) of the insurer's liabilities as of the date as of which the amount of such deficiency was determined.

Computation.

(3) In levying an assessment upon a policy providing for contingent liability, the assessment shall be computed on the basis of the premiums earned on such policy during the period to which the assessment relates.

Offset.

(4) No member shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or loss payable.

Lien on life insurance.

(5) As to life insurance, any part of such an assessment upon a member which remains unpaid following notice of assessment, demand for payment, and lapse of a reasonable waiting period as specified in such notice, may, if approved by the commissioner as being in the best interests of the insurer and its members, be secured by placing a lien upon the cash surrender values and accumulated dividends held by the insurer to the credit of such member.

Enforcement of contingent liability.

Section 448. **Enforcement of contingent liability.** (1) Any assessment made by an insurer under section 447 or 457 of this chapter shall be deemed to be prima facie correct. The amount of such assessment to be paid by each member as determined by the insurer shall be deemed to be likewise prima facie correct.

Notice.

(2) The insurer shall notify each member of the amount of the assessment to be paid by written notice mailed to the address of the member last of record with the insurer. Failure of the member to receive the notice

so mailed, within the time specified therein for the payment of the assessment or at all, shall be no defense in any action to collect the assessment.

Suit on failure to pay.

(3) If a member fails to pay the assessment within the period specified in the notice, which period shall not be less than twenty (20) days after mailing, the insurer may institute suit to collect the same.

Nonassessable policies—mutual insurers.

Section 449. **Nonassessable policies, mutual insurers.** (1) While possessing surplus funds in amount not less than the paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance, a domestic mutual insurer may, upon receipt of the commissioner's order so authorizing, extinguish the contingent liability of its members as to all its policies in force and may omit provisions imposing contingent liability in all its policies currently issued.

Foreign or alien insurer.

(2) A foreign or alien mutual insurer may issue nonassessable policies to its members in this state pursuant to its articles of incorporation and the laws of its domicile.

No assessment for insurer's debt or liability.

(3) No policy of a domestic mutual insurer which, pursuant to the commissioner's order, is without contingent liability and thereby nonassessable by its terms shall be subject to assessment for any debt or liability of the insurer.

Revocation of authority to issue nonassessable policies for cause.

Section 450. **Nonassessable policies, revocation of authority.** The commissioner shall revoke the authority of a domestic mutual insurer to issue policies without contingent liability if at any time the insurer's assets are less than the sum of its liabilities and the surplus required for such authority, or if the insurer, by resolution of its board of directors approved by a majority of its members, requests that the authority be revoked. During the absence of such authority the insurer shall not issue any policy without providing therein for the contingent liability of the policyholder, nor renew any policy which is renewable at the option of the insurer without endorsing the same to provide for such contingent liability.

Authority to issue participating policies.

Section 451. **Participating policies.** (1) If provided in its articles of incorporation, a domestic stock or domestic mutual insurer may issue any or all of its policies with or without participation in profits, savings or unabsorbed portions of premiums, may classify policies issued on a participating and non-participating basis, and may determine the right to participate and the extent of participation of any class or classes of policies. Any such classification or determination shall be reasonable, and shall not unfairly discriminate as between policyholders within the same such classifications. A life insurer may issue both participating and non-participating policies only if the right or absence of right to participate is reasonably related to the premium charged. Any such domestic insurer which, prior to the effective date of this code, has been issuing all or part of its policies on a participating basis without specific authorization in its articles of incorporation, may continue to issue such policies on a basis not inconsistent with this section.

Dividends not contingent after third year.

(2) After the third policy year no dividend otherwise earned, shall be made contingent upon the payment of renewal premium on any policy.

Authorized dividend funds—stock insurers.

Section 452. **Dividends to stockholders.** (1) A domestic stock insurer shall not pay any cash dividend to stockholders except out of that part of its available surplus funds which is derived from realized net profits on its business.

(2) A stock dividend may be paid out of any available surplus funds in excess of the aggregate amount of surplus loaned to the insurer under section 455.

(3) A dividend otherwise proper may be payable out of the insurer's earned surplus even though its total surplus is then less than the aggregate of its past contributed surplus resulting from issuance of its capital stock at a price in excess of the par value thereof.

Authorized dividend funds—mutual insurers.

Section 453. **Dividends to mutual policyholders.** (1) The directors of a domestic mutual insurer may from time to time apportion and pay or credit to its members dividends only out of that part of its surplus funds which represents net realized savings and net realized earnings in excess of the surplus required by law to be maintained.

(2) A dividend otherwise proper may be payable out of such savings and earnings even though the insurer's total surplus is then less than the aggregate of its contributed surplus.

Illegal dividends—penalty.

Section 454. **Illegal dividends — Penalty.** (1) Any director of a domestic stock or mutual insurer who votes for or concurs in declaration or payment of a dividend to stockholders or members other than as authorized under sections 452 or 453 shall upon conviction thereof be guilty of a misdemeanor and shall be jointly and severally liable, together with other such directors likewise voting for or concurring, for any loss thereby sustained by the insurer.

Stockholder's liability.

(2) Any stockholder receiving such an illegal dividend shall be liable in the amount thereof to the insurer.

Suspension, revocation—certificate of authority.

(3) The commissioner may revoke or suspend the certificate of authority of an insurer which has declared or paid such an illegal dividend.

Authority of insurer to borrow money—excess surplus.

Section 455. **Borrowed surplus.** (1) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest not exceeding six percent (6%) per annum, which interest shall or shall not constitute a liability of the insurer as to its funds other than such excess of surplus, as stipulated in the agreement. No commission or promotion expense shall be paid in connection with any such loan.

Interest.

Borrowed money not part of liabilities except as to excess surplus.

(2) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any setoff; but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

Loan approval by commissioner.

(3) Any such loan to a mutual insurer shall be sub-

ject to the commissioner's approval. The insurer shall, in advance of the loan, file with the commissioner a statement of the purpose of the loan and a copy of the proposed loan agreement. The loan and agreement shall be deemed approved unless within fifteen days after date of such filing the insurer is notified of the commissioner's disapproval and the reasons therefor. The commissioner shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties, and to other similar lenders, if any, to the insurer, or that the information so filed by the insurer is inadequate.

Repayment.

(4) Any such loan to a mutual insurer or substantial portion thereof shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such loan shall be made by a mutual insurer unless in advance approved by the commissioner.

Exempt loans.

(5) This section shall not apply to loans obtained by the insurer in ordinary course of business from banks and other financial institutions, nor to loans secured by pledge or mortgage of assets.

Impairment of capital or assets.

Section 456. **Impairment of capital or assets.** (1) If a stock insurer's capital (as represented by the aggregate par value of its outstanding capital stock) becomes impaired, or the assets of a mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it under sections 425 or 430 for authority to transact the kinds of insurance being transacted, the commissioner shall at once determine the amount of deficiency and serve notice upon the insurer to make good the deficiency within sixty days after service of such notice.

Notice to make good deficiency.

Methods available.

(2) The deficiency may be made good in cash or in assets eligible under chapter 6 (investments) for the investment of the insurer's funds; or if a stock insurer, by reduction of the insurer's capital to an amount not below the minimum required for the kinds of insurance thereafter to be transacted; or if a mutual insurer, by amendment of its certificate of authority to cover only

such kind or kinds of insurance thereafter for which the insurer has sufficient surplus under this code.

Delinquency proceedings on failure to make good deficiency.

(3) If the deficiency is not made good and proof thereof filed with the commissioner within such sixty-day period, the insurer shall be deemed insolvent and the commissioner shall institute delinquency proceedings against it under chapter 26 of this code; except that if such deficiency exists because of increased loss reserves required by the commissioner, or because of disallowance by the commissioner of certain assets or reduction of the value at which carried in the insurer's accounts, the commissioner may, in his discretion and upon application and good cause shown, extend for not more than an additional sixty days the period within which such deficiency may be so made good and such proof thereof so filed.

Assessment of stockholders or members to cure deficiency.

Section 457. **Assessment of stockholders or members.** Any insurer receiving the commissioner's notice mentioned in section 456 (1):

Exchange of stock certificates on failure to pay.

(1) If a stock insurer, by resolution of its board of directors and subject to any limitations upon assessment contained in its articles of incorporation, may assess its stockholders for amounts necessary to cure the deficiency and provide the insurer with a reasonable amount of surplus in addition. If any stockholder fails to pay a lawful assessment after notice given to him in person or by advertisement in such time and manner as approved by the commissioner, the insurer may require the return of the original certificate of stock held by the stockholder, and in cancellation and in lieu thereof issue a new certificate for such number of shares as the stockholder may then be entitled to, upon the basis of the stockholder's proportionate interest in the amount of the insurer's capital stock as determined by the commissioner to be remaining at the time of determination of amount of impairment under section 456, after deducting from such proportionate interest the amount of such unpaid assessment. The insurer may pay for or reissue fractional shares under this subsection.

Assessment—mutual insurer.

(2) If a mutual insurer, shall levy such an assessment upon members as is provided for under section 447.

Other lawful means permitted.

(3) Neither this section nor section 456 shall be deemed to prohibit the insurer from curing any such deficiency through any lawful means other than those referred to in such sections.

Directors' liability for losses incurred during deficiency.

Section 458. **Directors' liability for losses during deficiency.** The directors of the insurer shall be individually liable as to losses incurred under policies issued by the insurer after expiration of the period provided in section 456 for curing any deficiency of the insurer's capital stock or surplus and prior to the curing of the deficiency.

Stock transfer does not release accrued liability.

Section 459. **Stock transfer during impairment of capital.** Any transfer of the stock of a domestic insurer made during the existence of any impairment of such insurer's capital does not release the stockholder making the transfer from any liability as a stockholder of such insurer which accrued prior to such transfer.

Stock insurer may become mutual—approved plan.

Section 460. **Mutualization of stock insurers.** (1) A stock insurer other than a title insurer may become a mutual insurer under such plan and procedure as may be approved by the commissioner after a hearing thereon.

Disapproval for cause.

(2) The commissioner shall not approve any such plan, procedure or mutualization unless:

Must be equitable.

(a) It is equitable to stockholders and policyholders;

Approval by voting stockholders.

(b) It is subject to approval by the holders of not less than three-fourths of the insurer's outstanding capital stock having voting rights and by not less than two-thirds of the insurer's policyholders who vote on such plan in person, by proxy or by mail pursuant to such notice and procedure as may be approved by the commissioner;

Limited voting rights—life insurer.

(c) If a life insurer, the right to vote thereon is limited to holders of policies other than term or group policies, and whose policies have been in force for more than one year;

Effect on stock shares.

(d) Mutualization will result in retirement of shares of the insurer's capital stock at a price not in excess of the fair market value thereof as determined by competent disinterested appraisers;

Purchase of shares—nonconsenting stockholder.

(e) The plan provides for the purchase of the shares of any nonconsenting stockholder in the same manner and subject to the same applicable conditions as provided by sec. 15-1905 Replacement Vol. 2, Revised Codes of Montana, 1947, as to rights of nonconsenting stockholders, with respect to consolidation or merger of private corporations;

Effective date.

(f) The plan provides for definite conditions to be fulfilled by a designated early date upon which such mutualization will be deemed effective; and

Adequate surplus.

(g) The mutualization leaves the insurer with surplus funds reasonably adequate for the security of its policyholders and to enable it to continue successfully in business in the states in which it is then authorized to transact insurance, and for the kinds of insurance included in its certificates of authority in such states.

Exception.

(3) This section shall not apply to mutualization under order of court pursuant to rehabilitation or reorganization of an insurer under chapter 26.

Mutual insurer may become stock insurer—approved plan.

Section 461. **Converting mutual insurer.** (1) A mutual insurer may become a stock insurer under such plan and procedure as may be approved by the commissioner after a hearing thereon.

Disapproval for cause.

(2) The commissioner shall not approve any such plan or procedure unless:

Must be equitable.

(a) It is equitable to the insurer's members;

Approval by voting members.

(b) It is subject to approval by vote of not less than three-fourths of the insurer's current members voting thereon in person, by proxy, or by mail at a meeting of members called for the purpose pursuant to such reasonable notice and procedure as may be approved by the commissioner; if a life insurer, right to vote may be limited to members who hold policies other than term or group policies, and whose policies have been in force for not less than one year;

Policyholders equity—fair formula.

(c) The equity of each policyholder in the insurer is determinable under a fair formula approved by the commissioner, which such equity shall be based upon not less than the insurer's entire surplus (after deducting contributed or borrowed surplus funds) plus a reasonable present equity in its reserves and in all non-admitted assets;

Policyholders entitled to participate.

(d) The policyholders entitled to participate in the purchase of stock or distribution of assets shall include all current policyholders and all existing persons who had been a policyholder of the insurer within three years prior to the date such plan was submitted to the commissioner;

Policyholders' preemptive right.

(e) The plan gives to each policyholder of the insurer as specified in subdivision (d) above, a preemptive right to acquire his proportionate part of all of the proposed capital stock of the insurer, within a designated reasonable period, and to apply upon the purchase thereof the amount of his equity in the insurer as determined under subdivision (c) above;

Price of shares.

(g) Shares are so offered to policyholders at a price not greater than to be thereafter offered to others, but at not more than double the par value of such shares;

Payment—nonconsenting policyholder.

(h) The plan provides for payment to each policyholder not electing to apply his equity in the insurer for or upon the purchase price of stock to which preemptively entitled, of cash in the amount of not less than fifty percent (50%) of the amount of his equity not so used for the purchase of stock, and which cash payment together with stock so purchased, if any, shall constitute full payment and discharge of the policyholder's equity as an owner of such mutual insurer; and

Required paid-in capital stock.

(i) The plan, when completed, would provide for the converted insurer paid-in capital stock in an amount not less than the minimum paid-in capital required of a domestic stock insurer transacting like kinds of insurance, together with surplus funds in amount not less than one-half of such required capital.

Mergers and consolidation—stock insurers.

Section 462. **Mergers and consolidations of stock insurers.** (1) A domestic stock insurer may merge or consolidate with one or more domestic or foreign stock insurers authorized to transact insurance in this state, by complying with the applicable provisions of the statutes of this governing the merger or consolidation of stock corporations formed for profit, but subject to subsections (2) and (3) below.

Approval by commissioner.

(2) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the commissioner and approved in writing by him after a hearing thereon. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

Disapproval for cause.

(a) Is contrary to law; or

(b) Inequitable to the stockholders of any domestic insurer involved; or

(c) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state or elsewhere.

(3) No director, officer, agent or employee of any insurer party to such merger or consolidation shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in such plan or agreement.

Written notice of disapproval.

(4) If the commissioner does not approve any such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

Hearing—participation by insurance officials other jurisdictions.

(5) If any domestic insurer involved in the proposed merger or consolidation is authorized to transact insurance also in other states, the commissioner may request the insurance commissioner, director of insurance, superintendent of insurance or other similar public insurance supervisory official of the two other such states in which such insurer has in force the larger amounts of insurance, to participate in the hearing provided for under subsection (2) above, with full right to examine all witnesses and evidence and to offer to the commissioner such pertinent information and suggestions as they may deem proper.

Controlling stock—order of merger.

(6) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer, issued by the insurer for the purpose, for such controlling stock of the second insurer is deemed to be a plan or proposal of merger of the second insurer

into the first insurer for the purposes of this section and is subject to the applicable provisions hereof.

Mutual insurer not to merge with stock insurer.

Section 463. **Mergers and consolidations, mutual insurers.** (1) A domestic mutual insurer shall not merge or consolidate with a stock insurer.

Mutual insurer may merge with another.

(2) A domestic mutual insurer may merge or consolidate with another mutual insurer under the applicable procedures prescribed by the statutes of this state applying to corporations formed for profit, except as hereinbelow provided.

Approval by voting members.

(3) The plan and agreement for merger or consolidation shall be submitted to and approved by at least two-thirds of the members of each mutual insurer involved voting thereon at meetings called for the purpose pursuant to such reasonable notice and procedure as has been approved by the commissioner. If a life insurer, right to vote may be limited to members whose policies are other than term and group policies, and have been in effect for more than one year.

Approval by commissioner.

Disapproval for cause.

(4) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the commissioner and approved by him in writing after a hearing thereon. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(a) Inequitable to the policyholders of any domestic insurer involved; or

(b) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state and elsewhere.

(5) If the commissioner does not approve such plan or agreement he shall so notify the insurers in writing specifying his reasons therefor.

(6) Section 462 (5) shall also apply as to mergers and consolidations of such mutual insurers.

Reinsurance agreements—stock insurers.

Section 464. **Bulk reinsurance, stock insurers.** (1) A domestic stock insurer may reinsure all or substantially all of its insurance in force or a major class thereof,

Approval by commissioner.

with another insurer by an agreement of bulk reinsurance; but no such agreement shall become effective unless filed with the commissioner and approved by him in writing after a hearing thereon.

Disapproval for cause.

(2) The commissioner shall approve such agreement within a reasonable time after such filing unless he finds that it is inequitable to the stockholders of the domestic insurer or would substantially reduce the protection or service to its policyholders. If the commissioner does not approve the agreement he shall so notify the insurer in writing specifying his reasons therefor.

Reinsurance agreements—Mutual insurers.

Section 465. **Bulk reinsurance, mutual insurers.** (1) A domestic mutual insurer may reinsure all or substantially all its business in force, or all or substantially all of a major class thereof, with another insurer, stock or mutual, by an agreement of bulk reinsurance after compliance with this section. No such agreement shall become effective unless filed with the commissioner and approved by him in writing after a hearing thereon.

Approval by commissioner.

Disapproval for cause.

(2) The commissioner shall approve such agreement within a reasonable time after filing if he finds it to be fair and equitable to each domestic insurer involved, and that such reinsurance if effectuated would not substantially reduce the protection or service to its policyholders. If the commissioner does not so approve, he shall so notify each insurer involved in writing specifying his reasons therefor.

Approval by voting members.

(3) The plan and agreement for such reinsurance must be approved by vote of not less than two-thirds of each domestic mutual insurer's members voting thereon at meetings of members called for the purpose, pursuant to such reasonable notice and procedure as the commissioner may approve. If a life insurer, right to vote may be limited to members whose policies are other than term or group policies, and have been in effect for more than one year.

Reinsurance in stock insurer—conditions.

(4) If for reinsurance of a mutual insurer in a stock insurer, the agreement must provide for payment in cash to each member of the insurer entitled thereto as upon conversion of such insurer pursuant to section 461, of his equity in the business reinsured as determined under

a fair formula approved by the commissioner, which equity shall be based upon such member's equity in the reserves, assets (whether or not "admitted" assets), and surplus, if any, of the mutual insurer to be taken over by the stock insurer.

Section 466. **Mutual member's share of assets on liquidation.**

Distribution of assets on liquidation.

(1) Upon any liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness, policy obligations, repayment of contributed or borrowed surplus, if any, and expenses of administration, shall be distributed to existing persons who were its members at any time within thirty-six months next preceding the date such liquidation was authorized or ordered, or date of last termination of the insurer's certificate of authority, whichever date is the earlier.

Proportionate distributive share of members.

(2) The distributive share of each such member shall be in the proportion that the aggregate premiums earned by the insurer on the policies of the member during the combined periods of his membership bear to the aggregate of all premiums so earned on the policies of all such members. The insurer may, and if a life insurer shall, make a reasonable classification of its policies so held by such members, and a formula based upon such classification, for determining the equitable distributive share of each such member. Such classification and formula shall be subject to the approval of the commissioner.

Extinguishment of unused corporate charters—insurance corporations.

Section 467. **Extinguishment of unused corporate charters.** (1) The corporate charter of any corporation formed under the laws of this state more than three years prior to the effective date of this code for the purpose of becoming an insurer, and which corporation within such three-year period has not actively engaged in business as a domestic insurer under a certificate of authority issued to it by the commissioner under laws then in force, is hereby extinguished and nullified.

Other corporations.

(2) The corporate charter of any other corporation formed under the laws of this state for the purpose of becoming an insurer, and which corporation during any period of thirty-six consecutive months after the effective date of this code is not actively engaged in business as

a domestic insurer under a certificate of authority issued to it by the commissioner under law currently in force, is automatically hereby extinguished and nullified at the expiration of such 36-month period.

(3) The period during which any such corporation referred to in subsection (2) above is the subject of delinquency proceedings under chapter 26 of this code shall not be counted as part of any such 36-month period.

Merged corporations.

(4) Upon merger or consolidation of a domestic insurer with another insurer under this chapter, the corporate charter of such merged or consolidated domestic insurer shall thereby automatically be extinguished and nullified.

Farm mutual insurers—scope—definition.

CHAPTER 23 — FARM MUTUAL INSURERS

Section 468. **Scope of chapter; provisions exclusive.** (1) This chapter applies to:

(a) All domestic mutual hail, fire and other casualty insurers of farm property and stock and rural buildings heretofore formed and immediately prior to the effective date of this code lawfully transacting insurance under sections 40-1501 through 40-1517 (and all amendments thereto) of the Revised Codes of Montana, 1947.

(b) All domestic mutual rural insurers heretofore formed and immediately prior to the effective date of this code lawfully transacting insurance under sections 40-1601 through 40-1625 (and all amendments thereto) of the Revised Codes of Montana, 1947.

(c) All insurers hereafter formed under this chapter.

(2) All such insurers may be referred to as "farm mutual insurers."

(3) Nothing in the insurance laws of this state shall be deemed to apply to or govern either directly or indirectly domestic farm mutual insurers except as contained or referred to in this chapter.

"County" and "state" insurers defined.

Section 469. **"County" and "state" insurers defined.** (1) An insurer authorized to insure property throughout the state is a "state" mutual insurer.

(2) An insurer authorized to insure only property

located in the county wherein is located its principal office and in the counties in this state with boundaries contiguous with such principal office county is a "county" mutual insurer.

Insuring powers.

Section 470. **Insuring powers, in general.** (1) A farm mutual insurer shall insure against loss or damage by fire or other casualty only:

(a) Farm dwellings and buildings, including the usual contents therein, farm livestock, machinery, vehicles, growing crops and other forms of farm property owned by a member of such insurer or by his spouse.

(b) Dwellings designed for occupancy by not over two families, together with the usual contents thereof, situated in an incorporated city or town if such property is owned by a member of the insurer or by his spouse, and if such member has other insurance of farm property with the insurer for a substantial amount.

(c) Rural schoolhouses and buildings used in connection therewith, rural community houses or rural churches, or other rural public buildings.

(2) Except as provided in subsection (1) (c) above, an insurer shall not insure any property not owned by a member or by his spouse.

(3) An insurer shall not insure any property situated within the limits of incorporated towns or cities except as provided in subsection (1) (b) above; and shall not so insure unless it has and maintains the surplus funds as required under section 482 of this chapter.

Limit of risk.

Section 471. **Limit of risk.** (1) The maximum amount of insurance which an insurer shall retain on a single risk, after deduction of applicable reinsurance, shall not exceed ten percent (10%) of the admitted assets of the insurer or five thousand dollars, whichever is the larger amount.

"Single risk" defined.

(2) For the purposes of this section, a "single risk" as to insurance against fire and hazards other than windstorm, earthquake, or other catastrophic perils, includes all properties insured by the same insurer which are reasonably susceptible to loss or damage from the

same fire or the same occurrence of such other hazard insured against.

Reinsurance.

Section 472. **Reinsurance.** A farm mutual insurer may cede reinsurance to any other farm mutual insurer or insurers, and to other authorized property insurers, and may accept reinsurance from other farm mutual insurers.

Cash premium or assessment plan.

Section 473. **Cash premium or assessment plans.** (1) An insurer may transact business either on the cash premium plan altogether, or on the assessment plan altogether, whichever plan is provided for in its articles of incorporation or bylaws.

Collection under cash premium plan.

(2) If transacting business on the cash premium plan, the insurer shall collect from each member before or at the time of effectuation of the member's insurance the premium in cash in such amount as the insurer deems will be adequate to cover losses and expenses incurred during the term of such insurance.

Collection under assessment plan.

(3) If transacting business on the assessment plan, the insurer will depend for the payment of losses and expenses principally upon assessments from time to time levied upon members either before or after such losses or expenses have been incurred. This provision shall not be construed, however, as preventing any such insurer from collecting from each member such initial amount as it may deem proper prior to or at the time of the effectuation of the member's insurance; nor shall it be deemed to prohibit the acquisition, accumulation and maintenance of surplus or unallocated funds.

Special assessments under cash premium plan.

(4) An insurer transacting business on the cash premium plan may nevertheless provide in its bylaws and policies for special assessment of its members in event the cash premium charged is found by it to be inadequate to pay in full losses and expenses currently incurred. The bylaws shall provide a specific limitation as to the amount which can be so assessed in any one policy year, such amount to be not less than one (1) nor more than six (6) times the premium charged on each member's policy at the annual rate for a term of one (1) year.

Number of incorporators—farm mutual insurer.

Section 474. **Who may form a farm mutual insurer.** (1) One hundred (100) or more individuals residing in this state, each of whom is twenty-one (21) years of age or more, who collectively own farm property as referred to in section 470 (1) (a) of this chapter valued at not less than five hundred thousand dollars ($500,000) which they desire to insure, and each of whom owns farm lands or ranch lands situated in this state valued at not less than five thousand dollars ($5,000), may incorporate a state mutual insurer.

Number of incorporators—county mutual insurer.

(2) Twenty-five (25) or more individuals residing in this state, each of whom is twenty-one (21) years or more of age, each of whom owns farm land or ranch land valued at five thousand dollars ($5,000) or more in the county wherein is to be located the principal office of the proposed insurer, or in any county in this state contiguous with such county, and who collectively own in such counties farm property referred to in section 470 (1) (a) of this chapter valued at not less than one hundred twenty-five thousand dollars ($125,000) which they desire to insure, may incorporate a county mutual insurer.

Procedure—forming farm mutual.

Section 475. **Declaration of intention to incorporate —articles of incorporation.** (1) The individuals proposing to form a farm mutual insurer as referred to in section 474 shall file with the Commissioner:

Declaration of intention.

(a) A declaration of their intention to form such a corporation, which declaration shall be signed by at least one hundred (100) incorporators if a proposed state mutual insurer, or by at least twenty-five (25) incorporators if a proposed county mutual insurer; and

Proposed articles of incorporation.

(b) Proposed articles of incorporation executed in quadruplicate by three (3) or more of the incorporators and acknowledged by each before a person authorized to take and verify acknowledgments of conveyance of real property.

Required provisions—name of corporation.

(2) The articles of incorporation shall state:

(a) The name of the corporation; if a state mutual insurer, the words "farm mutual" must be a part of the name; if a county mutual insurer, the name shall contain the words "farm mutual", or "rural mutual" together with the name of the county wherein is to be located its principal place of business. The name shall not be so

Principal place of business.

similar to one already used by a corporation in this state as to be misleading.

Counties—county mutual.

(b) If a county mutual insurer, the name of the county or counties in which the corporation is to transact insurance and the address where its principal business office will be located.

Place of business—state mutual.

(c) If a state mutual insurer, the location of its principal business office, which office must be located in this state.

Purpose.

(d) The objects and purposes for which the corporation is formed.

Plan.

(e) Whether it intends to transact business on the cash premium plan or the assessment plan.

Duration.

(f) The duration of its existence, which may be perpetual.

Directors—number and names.

(g) The number of its directors, which shall not be less than five (5) nor more than (11); also the names and addresses of the members of the initial board of directors appointed to manage the affairs of the corporation until the first annual meeting of the members, and until their successors are elected and qualified.

Other legal provisions.

(h) Such other provisions, not inconsistent with law, deemed appropriate by the incorporators.

Incorporators—names, addresses, value of property.

(i) The names, residences and addresses of the incorporators, and the value of the property desired insured owned by each in the county or counties where the operations of the corporation are to be carried on.

Filing fee.

(3) At the time of filing of the articles of incorporation as provided in subsection (1) above, the incorporators shall pay to the Commissioner a filing fee of ten dollars ($10). The Commissioner shall deposit all such fees with the State Treasurer to the credit of the general fund of this state.

Approval by attorney general.

Section 476. **Articles of incorporation; approval; commencement of corporate existence.** (1) Upon receipt thereof, the Commissioner shall forward the proposed articles of incorporation to the Attorney General for examination. If the Attorney General finds the articles to be in accordance with the provisions of this chapter, and not in conflict with the constitution and laws of the United States of America or of this state, he shall make a certificate of the facts and return it with the proposed articles to the Commissioner.

Notice of name rejection.

(2) If the Commissioner deems the name of the proposed corporation to be so similar to one already appropriated by another company or corporation as to be likely to mislead the public, he shall reject the name applied for and shall notify the incorporators thereof.

Approval by commissioner.

(3) When the proposed articles of incorporation have been approved by the Attorney General, the Commissioner shall likewise endorse his approval upon each set of the articles, file one set in his office and forward the other three sets of articles to the incorporators. The incorporators shall file one of such sets of articles with the Secretary of State, one set with the Commissioner bearing the certification of the Secretary of State, and one set with the county clerk of the county wherein is located the principal place of business of the corporation, and shall pay to the Secretary of State and the county clerk the customary filing fees. The remaining set of articles shall be made a part of the corporation's records.

Certificate of authority required to transact insurance business.

(4) The corporation shall have legal existence as such upon the approval of the articles by the Attorney General and the Commissioner and completion of the filings referred to in subsection (3) above, but it shall not transact business as an insurer until it has fulfilled the requirements for and has obtained a certificate of authority as provided in section 483 of this chapter.

Amendment—two-thirds vote of members.

Section 477. **Amendment of articles of incorporation.** A farm mutual insurer may, by a vote of two-thirds (2/3) of its members present at any annual meeting, or at any special meeting of members called for that purpose, amend its articles of incorporation to extend its corporate duration or in any particular within the scope of this chapter, by causing amended articles to be filed in the same form and manner as required for original articles of incorporation. The amended articles of incorporation shall be signed only by the president and secretary of the corporation, and attested by the corporate seal. Notice of the proposed amendment shall be contained in the notice given of any such annual or special meeting.

Copies as evidence.

Section 478. **Certified copies of articles as evidence.** A copy of the articles of incorporation of a farm mutual insurer, and any amendments thereof, filed pursuant to law and certified by the Commissioner, shall be received in all courts and other places as prima facie evidence of the facts therein stated and of the due incorporation of the insurer.

Corporate powers.

Section 479. **Corporate powers — In general.** (1) An insurance corporation formed under this chapter, or existing on the effective date of this code, and of a type which might be formed under this chapter shall have the same capacity to act possessed by individuals, but with authority to perform only such lawful acts as are necessary or proper to accomplish its purposes.

(2) Without affecting the authority contained in subsection (1) above, every such corporation shall have the following corporate powers:

To have succession.

(a) To have succession by its corporate name for the period stated in its articles.

To sue.

(b) To sue and be sued in its corporate name.

Seal.

(c) To adopt, use and alter a corporate seal.

Property.

(d) To acquire, hold, sell, use, dispose of, pledge or mortgage any such property as its purpose may require, subject to any limitation prescribed by law or the articles of incorporation.

Insurance.

(e) To transact insurance.

Authorized representatives.

(f) To conduct its affairs through its directors, officers, employees, agents and representatives thereunto duly authorized.

By laws.

(g) To make bylaws not inconsistent with law for the exercise of its corporate powers, the management, regulation and government of its affairs and property, including (but not limited to) calling and holding of meetings of its directors or members, and to modify or amend such bylaws.

Necessary powers.

(h) To exercise, subject to law and the express provisions of the articles of incorporation, all such incidental and subsidiary powers as may be necessary or convenient to the attainment of the objectives set forth in such articles.

Dissolution.

(i) To dissolve and wind up, or be dissolved and wound up, in the manner provided by law.

Qualifications.

Section 480. **Initial qualifications.** When applying for an original certificate of authority as an insurer newly organized in this state, the insurer must have surplus as required by section 482 of this chapter, be otherwise qualified therefor under this code, and:

County mutual—applications—amount.

(1) If a county mutual insurer, it must have received acceptable bona fide written applications from twenty-five (25) separate persons for substantial insurance of the kinds of insurance proposed to be transacted, aggregating at least one hundred thousand dollars ($100,000); and such applicants must have given to the insurer the obligations referred to in section 510 of this chapter, or paid the premium required therefor, subject to the insurer qualifying to transact the kinds of insurance so applied for.

State mutual—applications—amount.

(2) If a state mutual insurer, it must have received acceptable bona fide written applications from one hundred (100) separate persons, each for substantial insurance, aggregating at least five hundred thousand dollars ($500,000) of the kinds of insurance proposed to be transacted; and such applicants must have given to the insurer the obligations referred to in section 510 of this chapter, or paid the premium required therefor, subject to the insurer qualifying to transact the kinds of insurance so applied for.

Crop hail insurers—amount.

(3) If to insure growing crops against loss or damage by hail, it must have received applications for such hail insurance from not less than one hundred (100) persons resident in Montana owning in the aggregate not less than five thousand (5,000) acres of grain; and each such applicant must have given to the insurer the obligations referred to in section 510 of this chapter, or paid the premium required therefor, subject to the insurer qualifying to transact insurance.

"Surplus" defined.

Section 481. **Surplus defined.** "Surplus" is the extent to which the value of an insurer's assets exceeds its liabilities.

Surplus funds required.

Section 482. **Surplus funds required.** A domestic farm mutual insurer may hereafter be authorized to transact insurance if otherwise in compliance with the applicable provisions of this chapter, if it has and thereafter maintains surplus funds as follows:

(1) If a state mutual insurer, surplus of not less than one hundred thousand dollars ($100,000);

(2) If a county mutual insurer, surplus of not less than twenty thousand dollars ($20,000); or

(3) If to insure growing crops against hail or other hazards, surplus in the amount of one hundred and fifty percent (150%) of the amount otherwise required under this section. This provision (3) shall not apply as to any domestic insurer first authorized as such prior to January 1, 1956, which transacts business on the pro rata, nonassessable plan, under which plan a pro rata portion only of insured losses is paid in event advance premiums collected are inadequate to pay all such losses in full.

Section 483. **Certificate of authority required; issuance; renewal.**

Certificate of authority required.

(1) No farm mutual insurer shall insure any risk in this state unless it then holds a subsisting certificate of authority issued to it by the commissioner.

Issuance.

(2) Upon application therefor the commissioner shall issue such a certificate of authority to every insurer qualified therefor under this chapter.

Expiration.

Renewal.

(3) Every such certificate of authority shall expire at midnight on the April 30 next following its date of issuance, unless theretofore revoked for cause or otherwise terminated. Unless he finds that the insurer is not qualified therefor under this chapter, the commissioner shall issue to the insurer a renewal certificate of authority on or before May 1 of each year. The commissioner shall not issue any such renewal certificate of authority to any insurer which has not filed its annual statement and report of expenditures as required under section 499 of this chapter.

(4) For each issuance and each renewal of its certificate of authority, the insurer shall pay to the commissioner a fee of five dollars ($5), if a county mutual insurer, or twenty dollars ($20), if a state mutual insurer, to be deposited by the commissioner with the state treasurer to the credit of the general fund of this state.

Fees—issuance and renewal.

(5) A certificate of authority shall be subject to suspension or revocation by the commissioner for violation of or noncompliance with any provision of this chapter or referred to herein.

Suspension, revocation for cause.

Section 484. **Bylaws; adoption, power to amend.** Upon commencement of the legal existence of an insurer, its initial board of directors shall adopt such original bylaws, not inconsistent with the state constitution or this chapter, as may be deemed necessary for the management of its affairs. The bylaws shall be subject to the approval of the insurer's members at their next succeeding meeting. The members shall otherwise have the power to make, modify and revoke bylaws.

Adoption of by laws.

Approval by members.

Section 485. **Bylaws — Contents.** (1) The bylaws of a farm mutual insurer shall provide:

Required provisions.

(a) As to the liability of each member for payment of the expenses and losses of the insurer, and what obligations shall be given therefor when a person applies for insurance.

Liabilities of member.

(b) As to the time when obligations of members for losses and expenses become due.

When due.

(c) For limitation of liability of members for the payment of expenses and losses of the insurer.

Limitation of liability.

(d) The terms of office of the directors; at least part of the directors shall be elected at each annual meeting of members, and the term of any director shall not be longer than three (3) years.

Directors—term.

(e) The date of the annual meeting of the members, at which vacancies existing or occurring on the board of directors are to be filled by election by the members. Each member shall be permitted to cast at least one vote, either in person or, if so authorized in the bylaws, by proxy, for each director to be elected, and may cumulate

Date of annual meeting.

his votes for one or more directors, not exceeding the number to be elected.

Directors—election. (f) How directors are to be elected in case no election occurs at the annual meeting, or in event of resignation, disability or death of a director.

Notice of meetings. (g) The manner and time of giving notice of annual and special meetings of members.

Permissive provisions. (2) The bylaws may provide:

(a) The character of property to be insured, and under what restrictions and limitations.

(b) Restrictions and limitations as to membership and the powers, duties and obligations of the members other than as to obligations covered under subsection (1) (a) above.

(c) The manner of making and collecting assessments.

(d) The manner of the suspension and expulsion of members.

(e) The form of application and the form of policy.

(f) The manner of making proof, adjustment and payment of losses.

(g) As to who is authorized to adjust losses for the insurer.

(h) For arbitration as provided in section 515 of this chapter, in event of the insurer's adjuster and any claimant cannot agree as to the amount of any insured damage or loss.

(i) The duties and compensation of the officers, and the bonds to be required of them.

(j) The books and records to be kept by the insurer, reports required of the officers and the manner of examining and auditing their accounts.

(k) What shall be contained on the corporate seal, and when the seal shall be required to be used.

(l) Such other matters as may be deemed necessary or convenient for the management of the affairs of the insurer.

By laws binding upon members.

Section 486. **Bylaws binding upon members.** The bylaws of a farm mutual insurer are binding upon all of its members, and as from time to time amended are a part of the contracts of insurance between the insurer and its members.

Qualifications—membership.

Section 487. **Members — Minimum membership.** (1) No person may become a member of a farm mutual insurer except by insuring therein property owned by him so insurable under this chapter.

(2) The membership of such an insurer shall consist of the persons lawfully insuring therein.

(3) The total membership of the insurer shall at all times be not less than the number of persons required by section 474 of this chapter to incorporate such an insurer.

Place of annual meetings.

Section 488. **Annual meetings of members — Where held.** Annual meetings of the members of a farm mutual insurer may be held at its principal business office or at any other place located in any county in this state in which the insurer is authorized to transact insurance.

Presentation of annual statement.

Section 489. **Annual meeting, presentation of annual statement.** The annual statement of the insurer as required to be filed with the commissioner under section 499 of this chapter shall be presented at the annual meeting of the members of the insurer next following the end of the calendar year to which such statement relates.

Notice of adjourned annual meetings.

Section 490. **Adjourned annual meetings — Notice.** Notice of any adjourned annual meeting of members shall be given to the members of an insurer in the same manner as provided in the insurer's bylaws for the regular annual meeting of members.

Members' voting rights.

Section 491. **Members voting rights.** Each member of an insurer is entitled to one vote upon each matter coming to a vote at meetings of members of the insurer. A member may vote by written proxy if and as may be provided in the insurer's bylaws. No such proxy shall be made irrevocable or for longer than one year.

Limitation of members' liability.

Section 492. **Members' liability, limitation.** All liability of the members of a farm mutual insurer shall be as limited in the insurer's bylaws. As to insurers transacting business on the cash premium plan, the limitation shall comply with section 473 (4) of this chapter. No member shall be required to pay more than the full amount of his obligation given to the insurer, or of his liability as provided for in the bylaws.

Withdrawal of member.

Section 493. **Withdrawal of member — Cancellation by insurer.**

Surrender of policy for cancellation.

(1) Any member of an insurer may withdraw therefrom by surrendering his policy to the insurer for cancellation and paying all obligations then owing by him to the insurer.

Cancellation by insurer for cause— 10 days' notice.

(2) The insurer has power to cancel the policy of any member for any cause deemed adequate by the insurer and upon not less than ten (10) days written notice in advance of cancellation delivered to the member or mailed to his address last of record with the insurer.

Directors manage farm mutual.

Section 494. **Board of directors — Quorum.** (1) The general management of the affairs of a farm mutual insurer is vested in its board of directors.

Quorum.

(2) A majority of the directors shall constitute a quorum to do business at any lawful meeting of the board.

Election— term of office.

Section 495. **Directors; election, term.** (1) Directors of a farm mutual insurer shall be elected by its members by ballot for terms not to exceed three (3) years, and shall hold office until their respective successors are elected and have qualified.

Director must be member.

(2) No individual shall serve as a director unless a member of the insurer.

Election of officers.

Section 496. **Officers.** The board of directors of an insurer shall elect from their number a president and vice-president. The board shall also elect a secretary and treasurer or a secretary-treasurer, who may or may not be members of the insurer. Officers shall hold their offices for one (1) year, and until their successors are elected and qualified, unless earlier removed by the board of directors.

Section 497. **Bonds of officers.** The treasurer and secretary of an insurer shall each give bonds to the insurer for the faithful performance of their duties, in such amount as is designated by the board of directors. Any such bond shall be one issued by an authorized corporate surety.

Bonds required.

Section 498. **Officers, agents and employees not licensed.** No agent of an insurer shall be required to obtain a license or authority from any public official to transact business for such insurer, nor shall the insurer or any of its officers, agents or employees be required to pay any fee or license for the transaction of the business of the insurer, except as provided in this chapter.

License not required—officers, agents, employees.

Section 499. **Annual statement — Report — Must be filed with commissioner.** (1) The president and secretary of every insurer, on or before the first day of March each year, shall prepare, affirm under oath, affix the corporate seal thereto and file with the commissioner, on forms as prescribed and furnished by him, an annual statement for the preceding calendar year showing the condition of such insurer as of December 31 of such year and exhibiting the following facts:

Annual statement must be filed.

Required facts.

(a) The names of the president and secretary.

(b) The date of the annual meeting.

(c) The amount of insurance in force.

(d) The number of members.

(e) The number of assessments made during the year.

(f) The amount paid in losses during the year.

(g) The amount of the losses claimed and not paid, with the reason for non-payment.

(h) The number of members withdrawn, suspended and expelled during the year.

(i) The number of new members admitted during the year.

(j) The expenses during the year.

(k) The amount of money on hand.

(l) The amount and character of the insurer's assets.

(m) The amount of the insurer's liabilities, including any reserves required to be established under this chapter.

(n) Such other information concerning the insurer's affairs as the commissioner may reasonably require.

Annual report must be filed.

(2) A report of an insurer's expenditures for educational purposes, if any, for the preceding year must be filed with the commissioner at the same time and in conjunction with the annual report of such insurer, as required under section 503.

Copy filed with county clerk.

(3) A copy of such annual statement and report of expenditures for educational purposes shall be filed by each county mutual insurer with the county clerk and recorder of the county wherein is located its principal place of business.

No other report required.

Section 500. **Annual statement — Exclusive report — Penalty for failure to file.** (1) No report, statement or return of any nature shall be required of any farm mutual insurer other than those required by section 499 of this chapter.

Suspension, revocation—certificate of authority.

(2) The commissioner may suspend or revoke the certificate of authority of any insurer failing to file its annual statement as required.

Examination—power of commissioner.

Section 501. **Examination by commissioner—Expense.** (1) The commissioner has power, at any time, to investigate and examine the affairs and books of any insurer.

Limitation—amount of expense paid by insurer.

(2) The charges to be paid by the insurer to the commissioner and his examiners for investigation and examinations provided for in subsection (1) above shall not exceed one hundred dollars ($100) in any one calendar year unless otherwise expressly authorized by the insurer.

Power of directors to invest funds—specified investments.

Section 502. **Investments.** (1) When so directed by a majority vote of its members present at a duly called and held meeting of members, the directors of a farm mutual insurer shall have power to invest the insurer's funds or any part thereof in any of the following:

(a) Bonds or other securities issued by the United States government or by any agency thereof.

(b) Bonds or other obligations the payment of the interest and principal of which is assumed or guaranteed by the United States government or any agency thereof.

(c) General obligation bonds or warrants of any state, county or city, when recommended by the commissioner and approved by the state examiner.

(d) Loans secured by a first mortgage on real estate situated in the State of Montana, but subject to the provisions of subsection (3), below.

Negotiability requirement.

(2) At the time of making any such investment the document evidencing the same must be stamped with the name of the insurer with the following notation printed or written thereon: "Negotiable only upon the order of the board of directors of..(naming the insurer)."

Limitations— real estate loans.

(3) No real estate loan shall be for more than sixty percent (60%) of the appraised value of the real estate securing the loan, and the appraisal must have been made within thirty (30) days prior to the date of the loan. No such loan shall be for a term longer than ten (10) years. The foregoing provisions shall not be deemed to prevent the renewal or extension of loans already made, and shall not apply to real estate loans which are insured under the provisions of any act of the congress of the United States, nor to the making, extension or renewal of any loans which are made under subchapter II of the act of congress known as the "servicemen's readjustment act of 1944," or any amendment thereof or supplement thereto, as to any part of such loans; nor shall such provisions be deemed to prevent an insurer from taking another and immediately subsequent mortgage or deed of trust when it already holds a first mortgage or deed of trust on the same real estate, nor from accepting a second lien on real estate to secure the payment of a debt previously contracted in good faith; nor shall it prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith when in the judgment of the insurer's board of directors such subsequent liens are necessary further to secure the payment of any debts and save the insurer from loss.

Authority to spend for educational purposes.

Section 503. **Expenditure of funds for educational purposes.** An insurer may spend in any one year up to five percent (5%) of its net earnings of the preceding year for educational purposes. A complete and itemized report of such expenditures shall be filed by the insurer as part of its annual report required under section 499.

Authority to create safety funds.

Section 504. **Safety fund.** (1) Any domestic farm mutual insurer may create a "safety" fund, in addition to any surplus required under section 482 or reserve otherwise required, for the purpose of paying insured losses or lawful expenses or obligations of the insurer as they are incurred.

Amount limited.

(2) The safety fund shall not exceed in amount three percent (3%) of the total amount of insurance in force in the insurer.

Exclusive use.

(3) The safety fund shall not be used for any purpose except as specified in subsection (1) above.

Reserves required—cash premium plan.

Section 505. **Reserves — Cash premium plan.** Each insurer transacting business on the cash premium plan shall maintain the following reserves:

(1) A loss reserve, in amount reasonably adequate to pay in full all losses already incurred but currently unpaid. The amount subsequently paid on such losses shall be credited against this reserve.

(2) A reserve for unearned premiums, which reserve shall be computed at fifty percent (50%) of net premiums (gross premiums less premiums returned) charged and collected for unexpired policy periods that commenced during the calendar year covered by the financial statement, plus one hundred percent (100%) of such net premiums charged and collected in advance for policy periods that are to commence after such calendar year. Or in the alternative, the insurer may at its option compute its entire reserve for unearned premiums as the aggregate amount of the pro rata unearned premiums for each policy in force as at the end of the calendar year to be covered by the financial statement.

Profit or dividends prohibited.

Section 506. **Profits or dividends.** No insurer shall accumulate any profits as such or pay any dividends. This provision shall not be deemed to prohibit an insurer from accumulating and maintaining surplus funds as required to be maintained by it under this chapter, or a "safety" fund as authorized under section 504, or from accumulating and maintaining other voluntary reserves for such purposes and in such amounts as may be reasonable. Limitations upon any such accumulations and the purposes thereof may be provided for in the insurer's bylaws.

Deficiency of surplus—duty to cure.

Section 507. **Deficiency of surplus.** If the surplus funds of a farm mutual insurer at any time fall below the amount required to be maintained under this chapter, the insurer shall cure such deficiency within six (6) months thereafter, notwithstanding that new losses or expenses may be incurred within such six (6) months' period. If the deficiency is not so cured, the commissioner may, upon the insurer's written application therefor, allow an additional reasonable period, not to exceed six (6) months, for the curing of the deficiency. If the deficiency is not so cured within the first six (6) months' period (if additional time is not so applied for) or within such additional period as the commissioner may so allow, the commissioner shall forthwith suspend or revoke the insurer's certificate of authority.

Suspension, revocation on failure to cure.

Records required.

Section 508. **Records.** A farm mutual insurer, through its president and secretary, shall keep or cause to be kept accurate records and accounts of its transactions. The books, files and records of the insurer shall be located at its principal place of business or, in the case of a county mutual insurer, at such place within the county of its principal place of business as may be designated by the insurer's board of directors and shown in the minutes of the board. The books, files and records of the insurer shall be available for inspection by the insurer's directors and officers, and by the commissioner or his duly constituted examiner, at all reasonable times.

Limited liability for fees and taxes—farm mutual.

Section 509. **Fees and taxes.** Except for the fees for filing articles of incorporation as provided in sections 475 and 476, for issuance and renewal of certificate of authority as provided in section 483, and for costs of examination by the commissioner as limited in section 501 (2), domestic farm mutual insurers shall not be subject to any other or additional fees or taxes of any kind, except for the usual ad valorem taxes upon real estate and tangible personal property of the insurer.

Applications for insurance.

Section 510. **Application for insurance.** All persons desiring insurance shall make written application therefor to the insurer. If the insurer is transacting business on the assessment plan, the applicant shall at the time of application give his obligation to the insurer for the payment of losses and expenses as provided in the insurer's bylaws, and make such advance payment in cash as the insurer may require.

Obligation under assessment plan.

Approval of forms by commissioner required.

Section 511. **Application and policy forms filed with commissioner.** All forms of application for insurance and of policies proposed to be used by an insurer shall be filed with the commissioner at least thirty (30) days in advance of any such use. The commissioner shall disapprove any such form found by him to be unlawful, illegible or misleading. An insurer shall not use any such form after it has received the commissioner's notice of disapproval setting forth the reasons therefor.

Farm mutual rates need not be filed.

Section 512. **Rates; filing, discrimination.** A farm mutual insurer is not required to file any of its insurance rates with the commissioner. No such rate shall be unfairly discriminatory as between subjects of insurance covered for like perils under like policies and having substantially the same insuring, exposure and underwriting characteristics.

Insurance on schools, community houses, churches—not deemed members.

Section 513. **Insurance of schools, community houses, churches.** (1) No contract of insurance effected upon the property of any school district, rural community house, rural church or rural public building pursuant to section 470 of this chapter shall be deemed to constitute such school district, or the owners of any such community house, church or public building, a member of the insurer.

Contract valid.

(2) No contract of insurance effected upon any rural school building, rural community house, rural church or other rural public building referred to in section 470 (1) (c) of this chapter shall be invalid because the directors or any director or officer of the insurer, at the time of effecting the insurance coverage was a trustee, director, agent, custodian or manager, or in any way in

control, supervision or management of any or all of the property so insured.

Notice of loss.

Section 514. **Losses — Notice — Adjustment.** (1) Every member of a domestic farm mutual insurer who has sustained any insured loss or damage shall immediately notify the insurer's secretary thereof and of the amount of damage or loss claimed.

Notice to adjusters.

(2) Upon receipt of the notice of loss referred to in subsection (1) above, the secretary shall notify the person or persons authorized by the bylaws of such insurer to ascertain the amount of the loss or damage and adjust the same.

Arbitration disputed loss.

Section 515. **Arbitration — Committee — Compensation.** (1) If any insurer's adjuster and a claimant fail to agree as to the amount of the insured loss or damage sustained by the claimant, and if so provided for in the insurer's bylaws, the matter shall be submitted to three persons as a committee of reference, one of whom shall be selected by the claimant, one by the insurer and the third by such two persons, all of whom shall be sworn to a faithful and impartial investigation and award.

Committee of reference.

Authority of committee.

(2) The committee of reference shall have authority to examine witnesses and determine all matters in dispute. The decision or award of the committee shall be made in writing to the secretary of the insurer. If it relates to any claimed loss or damage to a crop, the decision or award shall not be made until after maturity of such crop. The decision or award of the committee shall be final and binding upon all parties, unless an interested party appeals to the court within thirty (30) days thereafter.

Appeal.

Compensation of committee members.

(3) The compensation of each member of any such committee shall be at the rate of ten dollars ($10) per day for each day of service in the discharge of his duties. Such compensation shall be paid by the claimant, unless the award of the committee exceeds the sum theretofore offered by the insurer in settlement of the claim and in which case the compensation shall be paid by the insurer.

Assessments—time for payment—collection.

Section 516. **Obligations or assessments due — Losses payable.** (1) Obligations or assessments of members for losses and expenses become due and payable at such time as may be provided in the bylaws of the insurer, and the insurer shall use due diligence to collect each obligation or assessment.

Time for payment—claims.

(2) Any valid claim for an insured loss against an insurer transacting business on the assessment plan shall not be payable by the insurer until thirty (30) days after such obligations of the members are due and payable.

Authority to sue member.

Section 517. **Suit to collect obligations — Liability of directors or officers.** (1) An insurer may institute a suit against any member of such insurer if the member fails to pay when due any obligation or liability of the member given such insurer under the provisions of this chapter.

Individual liability—officers and directors.

(2) The directors or officers of an insurer are liable in their individual capacity to the person sustaining an insured loss, if they wilfully refuse or neglect to perform the duties imposed upon them by the provisions of this section.

Proportionate payment of losses.

Section 518. **Proportionate payment of losses.** If the aggregate whole amount of the members' obligations to an insurer transacting business on the assessment plan are insufficient to pay all valid claims for losses under the insurer's contracts of insurance after necessary expenses in any one year, then such claimants insured by the insurer shall receive their proportionate share of the funds realized from such obligations in full satisfaction of such losses.

Insurer may be sued by claimant.

Section 519. **Suit to collect for loss.** If the insurer fails to pay any insured loss when due, an action may be maintained against it to collect for such loss, but subject to section 518 as to assessment plan insurers.

Other provisions applicable to farm mutual insurers.

Section 520. **Other provisions applicable.** The following chapters and sections of this code also shall apply to farm mutual insurers to the extent so applicable and not inconsistent with the express provisions of this chapter and the reasonable implications of such express provisions:

(1) Chapter 1 (scope of code).

(2) Chapter 2 (the commissioner of insurance).

(3) The following sections of chapter 5 (assets and liabilities):

(a) Section 82 (''assets'' defined).

(b) Section 84 (assets not allowed).

(c) Section 94 (valuation of bonds).

(d) Section 95 (valuation of other securities).

(e) Section 96 (valuation of property).

(f) Section 97 (valuation of purchase money mortgages).

(4) Chapter 10 (trade practices and frauds).

(5) The following sections of chapter 22 (organization, corporate procedures of domestic stock and mutual insurers):

(a) Section 440 (prohibited pecuniary interest of officials).

(b) Section 442 (home office and records; penalty for unlawful removal of records).

(c) Section 443 (vouchers for expenditures).

(d) Section 455 (borrowed surplus).

(e) Section 463 (mergers and consolidations, mutual insurers).

(f) Section 465 (bulk reinsurance, mutual insurers).

(g) Section 466 (mutual member's share of assets on liquidation).

(h) Section 467 (extinguishment of unused corporate charters).

(6) Chapter 26 (rehabilitations and liquidations).

CHAPTER 24 — BENEVOLENT ASSOCIATIONS

Section 521. **Scope of chapter; provisions exclusive.** (1) This chapter applies only to benevolent associations.

(2) No provision of this code shall apply to any

such association unless contained or referred to in this chapter.

"Benevolent association" defined.

Section 522. "**Benevolent association" defined.** (1) Any corporation, association or society, or by whatever name called, which issues any certificate, policy, membership agreement, or makes any promise or agreement with its members, whereby, upon decease of a member, any money or other benefit, charity, aid or relief is to be paid, provided or rendered by such corporation, association or society to his legal representatives, or to the beneficiary designated by him, which money, benefit, charity, aid or relief is derived from voluntary donations, or from admission fees, dues or assessments, or any of them collected or to be collected from the members thereof, or members of a class therein, or interest or accretions thereon, or accumulations thereof; and wherein the money or other benefit, charity, aid or relief, so realized, is applied to or accumulated for the uses and purposes herein specified, and/or the uses of such corporation, association or society, and/or the expenses of management and prosecution of its business, shall be deemed to be a "benevolent association" for the purposes of this chapter.

(2) The definition of benevolent association in subsection (1) above is not applicable to:

(a) Burial or death benefits, annuities, endowments or any other benefit payments of any legal reserve life or disability insurer, or of any labor union, railroad brotherhood, or lodge having as a primary business the improvement of working conditions; or

(b) Any ladies auxiliaries to any labor union, railroad brotherhood or lodge referred to in subdivision (a) above; or

(c) The benevolent plans within fraternal orders if limited to members and if the plan is not the principal object for the formation or continuance of the fraternal order.

"Member in good standing" defined.

Section 523. **Member — Member in good standing — Defined.** A "member" or "member in good standing" is an individual who must contribute to a benevolent association upon notice of assessment.

"Membership contract" defined.

Section 524. **Membership contract.** (1) "Membership contract" is any certificate, policy, membership agreement, by whatever name called, or any promise or agreement, of a benevolent association with any or all of its members, whereby any money or other benefit, charity, aid or relief is to be paid, provided or rendered by such association upon the decease of a member to his legal representatives, or to the beneficiary or beneficiaries designated by him.

(2) There shall be one contributing member for each membership contract, but a membership contract may cover more than one individual.

"Officer" defined.

Section 525. **"Officer" defined.** "Officer" is any of the individuals having supervision and control of a benevolent association, and engaging in the management and the prosecution of the business thereof, whether designated as officers, trustees, comptrollers, managers or by whatever name called.

New benevolent associations prohibited.

Section 526. **New benevolent associations prohibited; foreign associations.** (1) No benevolent association shall transact or be authorized to transact any business in this state unless it lawfully had authority to transact such business as such an association immediately prior to the effective date of this code.

(2) No new benevolent association shall hereafter be organized or formed in this state.

(3) No association formed or existing under the laws of any other state or jurisdiction shall be authorized to transact business in this state.

Existing associations must file amendments.

Section 527. **Amendments filed with commissioner.** Each benevolent association shall promptly file with the commissioner a copy, certified to by its president and secretary, of each of the following:

(1) If incorporated, any amendment of articles of incorporation or of bylaws;

(2) If not incorporated, any amendment of articles of association, of agreement or of rules or agreements with its members.

(3) Any modification of its form of membership contracts.

Management by officers—number.

Section 528. **Officers — Number — Bond.** (1) Each benevolent association shall be in the charge of its officers, and shall not have more than five (5) officers.

Bond required.

(2) The treasurer and any other officer having charge of any funds of a benevolent association shall each be bonded in the amount of one thousand dollars ($1,000), executed to the State of Montana, joint and several, for the use and benefit of the members or beneficiaries of such association. Each such bond shall be on file in the principal office and address of the association and a certified copy thereof must be filed with the commissioner.

Licensed agents.

Section 529. **Agents — License.** Agents for any benevolent association may be appointed in accordance with chapter 8 of this code, and shall be subject to the applicable provisions of such chapter, except as provided in section 530. No such agent may be appointed if there are less than three (3) officers in charge of the association.

Officers as agents.

Section 530. **Officers as agents.** Not exceeding five (5) officers of any benevolent association may act for the association without obtaining a license as an agent. Such officers shall be subject to the jurisdiction of the commissioner in the same manner as though they were licensed as agents under chapter 8 of this code.

Receipts for payment required.

Section 531. **Receipts for payment to association.** Every benevolent association shall issue a receipt or other evidence of payment to each person making a payment of any kind to the association.

Minimum membership.

Section 532. **Minimum membership.** Each benevolent association shall have at all times not less than two hundred (200) members in good standing.

Limitations on expenses.

Section 533. **Expenses — Assessment for expenses — Shown in annual statement.** (1) The total expenses of any benevolent association during any calendar year shall not exceed the larger of the following:

(a) Ten percent (10%) of the total amount received during such year, whether as assessments, dues, donations or by whatever name called, except fees collected for new memberships; or

(b) Fifteen dollars ($15) per death loss incurred during such year.

Assessments.

(2) Such an association may, instead of providing for expenses as in subsection (1) above, assess each of its members for expenses at an amount not to exceed three dollars ($3) per calendar year, except that such assessment shall not exceed four dollars ($4) per year where a membership certificate includes within its protection a family group consisting of two (2) or more persons. The proceeds of such assessments shall be placed in an expense fund out of which all of the expenses of the association for such year shall be paid. The association shall show the condition of such expense fund in its annual statement.

Annual statement must show method.

(3) The asssociation shall state in its annual statement whether the expenses as to be shown in its next annual statement will be determined as in subsection (1) above, or whether the members will be assessed for the same as in subsection (2) above. No association shall use both methods, nor a combination of such methods.

Proof of claim assigned number.

Section 534. **Payment of death claims.** (1) Each completed proof of claim for death of a member of a benevolent association shall be assigned a number by the association in consecutive order of receipt for each calendar year.

Payment of claims—time.

(2) Payment in full on final settlement of death benefits shall be made by the association to the legal heir or heirs, or the designated beneficiary or beneficiaries, within twenty (20) days after the expiration date stated in the association's notice referred to in section 535 (1) (c).

Section 535. Assessment for death benefit — Notice— Procedure.

Assessment for death claim— time, notice.

(1) Within thirty (30) days after a benevolent association receives a completed proof of claim for death of a member, it must mail to each of its members in good standing an assessment notice stating:

(a) The name, date and place of death of the deceased member;

(b) The number of the proof of death claim assigned thereto by the asssociation;

(c) The amount of the assessment and the expiration date of the assessment payment; and

(d) The number of members in good standing to whom such notices are being sent, as computed from the last completed assessment.

Copy filed with commissioner.

(2) At the time of mailing the assessment notice required by (1) above, the association shall send a duplicate thereof to the commissioner for filing, together with information as to the mailing of the notice to members.

Required provisions—annual statement.

Section 536. **Annual statement.** (1) In addition to compliance with section 65 of this code, the annual statement of a benevolent asssociation shall exhibit the following items and facts:

(a) The name and business address of the association.

(b) The names and addresses of the officers of the association.

(c) The number of membership contracts in force at the commencement of the year and the number of memberships in good standing at the close of the year for which the statement is made. This provision is also applicable to each sub-group or class, if any, of the association.

(d) The number of death losses claimed; the number and total amount of death losses paid; the number of death claims compromised, denied or resisted, and reasons therefor.

(e) The number of assessments in the association and in each sub-group or class, if any; the amount collected in each such assessment; income to the benevolent association from all other sources; and all other fees, assessments, donations, of any kind or nature, except new membership fees from new members.

(f) The expenses actually incurred during the year; debts unpaid at the commencement of the year; debts and obligations of any kind (not including death losses actually paid) incurred during the year; debts unpaid at the close of the year; a breakdown of expenses to show the amount paid in salaries or commissions, office expense and other expenses, in those cases where members of the benevolent asssociation are assessed for operating expenses of such association.

(g) Whether the association has complied with all of the provisions of sections 533 and 534 of this chapter.

(h) The information required by section 533 of this chapter.

(2) Two (2) officers of the association shall attest under oath to the truth of the facts contained in the annual statement. At least one of such officers must have charge of making up the statement.

Copy filed with county clerk.

(3) A copy of the annual statement certified by the commissioner must be filed before the first day of April each year by the association in the office of the county clerk of the county in which the business office of the association is located.

Other provisions applicable.

Section 537. **Other provisions applicable.** In addition to the provisions contained in this chapter, other chapters and provisions of this code shall apply to benevolent associations, to the extent applicable, as follows:

(1) Chapter 1 (scope of code).

(2) Chapter 2 (the commissioner of insurance).

(3) The following sections of chapter 3 (authorization of insurers and general requirements):

(a) Section 46 (certificate of authority required; in general).

(b) Section 50 (name of insurer).

(c) Section 55 (management and affiliations).

(d) Section 58 (continuance, expiration, reinstatement and amendment of certificate of authority).

(e) Section 59 (mandatory revocation, suspension of certificate of authority).

(f) Section 60 (suspension or revocation for violations and special grounds).

(g) Section 61 (notice of suspension or revocation; effect upon agent's authority).

(h) Section 62 (duration of suspension; insurer's obligations; reinstatement).

(i) Section 63 (commissioner attorney for service of process).

(j) Section 64 (serving process; time to plead).

(4) The following provisions of chapter 5 (assets and liabilities):

(a) Section 82 ("assets" defined).

(b) Section 84 (assets not allowed).

(5) Section 130 (prohibited investments).

(6) Chapter 10 (trade practices and frauds).

(7) Chapter 12 (the insurance contract).

(8) The following sections of chapter 22 (organization and corporate procedures of domestic stock and mutual insurers):

(a) Section 440 (prohibited pecuniary interest of officials).

(b) Section 442 (home office and records; penalty for unlawful removal of records).

(c) Section 443 (vouchers for expenditures).

(d) Section 466 (mutual member's share of assets on liquidation).

(e) Section 467 (extinguishment of unused corporate charters).

(9) Chapter 26 (rehabilitations and liquidations).

CHAPTER 25 — RECIPROCAL INSURERS

"Reciprocal" insurance defined.

Section 538. **"Reciprocal" insurance defined.** "Reciprocal" insurance is that resulting from an interexchange among persons, known as "subscribers," of reciprocal agreements of indemnity, the interexchange being effectuated through an ''attorney-in-fact'' common to all such persons.

"Reciprocal insurer" defined.

Section 539. ''**Reciprocal insurer**'' **defined.** A ''reciprocal insurer'' means an unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact to provide reciprocal insurance among themselves.

Existing insurers must comply.

Section 540. **Scope of chapter — Existing insurers.** (1) All authorized reciprocal insurers shall be governed by those sections of this chapter not expressly made applicable to domestic reciprocals.

Amendments required.

(2) Existing authorized reciprocal insurers shall after the effective date of this code comply with the provisions of this chapter, and shall make such amendments to their subscribers' agreement, power of attorney, policies and other documents and accounts and perform such other acts as may be required for such compliance.

Rights.

Section 541. **Insuring powers of reciprocals.** (1) A reciprocal insurer may, upon qualifying therefor as provided for by this code, transact any kind or kinds of insurance defined by this code, other than life or title insurances.

Reinsurance.

(2) Such an insurer may purchase reinsurance, and may grant reinsurance as to any kind of insurance it is authorized to transact.

Name.

Section 542. **Name, suits.** A reciprocal insurer shall: (1) Have and use a business name. The name shall include the word ''reciprocal,'' or "interinsurer," or ''interinsurance,'' or ''exchange,'' or ''underwriters,'' or ''underwriting.''

Sue and be sued.

(2) Sue and be sued in its own name.

"Attorney" defined.

Section 543. **Attorney.** (1) ''Attorney,'' as used in this chapter refers to the attorney-in-fact of a reciprocal insurer. The attorney may be an individual, firm or corporation.

Not deemed doing business.

(2) The attorney of a foreign or alien reciprocal insurer, which insurer is duly authorized to transact insurance in this state, shall not, by virtue of discharge of its duties as such attorney with respect to the insurer's

transactions in this state, be thereby deemed to be doing business in this state within the meaning of any laws of this state applying to foreign firms or corporations.

Surplus funds required.

Section 544. **Surplus funds required.** (1) A domestic reciprocal insurer hereunder formed, if it has otherwise complied with the applicable provisions of this code, may be authorized to transact insurance if it has and thereafter maintains surplus funds as follows:

(a) To transact property insurance, surplus funds of not less than two hundred thousand dollars ($200,000);

(b) To transact casualty insurance, (other than workmen's compensation) surplus funds of not less than two hundred thousand dollars ($200,000).

(2) In addition to surplus required to be maintained under subsection (1) above, the insurer shall have, when first so authorized, expendable surplus in amount as required of a like foreign reciprocal insurer under section 53.

(3) A domestic reciprocal insurer may be authorized to transact additional kinds of insurance if it has otherwise complied with the provisions of this code therefor and possesses and so maintains surplus funds in amount equal to the minimum capital stock required of a stock insurer for authority to transact a like combination of kinds of insurance.

Required number of organizers.

Section 545. **Organization of reciprocal insurer.** (1) Twenty-five (25) or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the commissioner for a certificate of authority to transact insurance.

Declaration must be filed—provisions.

(2) The proposed attorney shall fulfill the requirements of and shall execute and file with the commissioner when applying for a certificate of authority, a declaration setting forth:

Name.

(a) The name of the insurer;

Offices.

(b) The location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;

Kinds of insurance.

(c) The kinds of insurance proposed to be transacted;

(d) The names and addresses of the original subscribers; **Subscribers.**

(e) The designation and appointment of the proposed attorney and a copy of the power of attorney; **Power of attorney.**

(f) The names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm; **Names of attorney.**

(g) The powers of the subscribers' advisory committee; and the names and terms of office of the members thereof; **Advisory committee.**

(h) That all monies paid to the reciprocal shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement; **Monies paid.**

(i) A copy of the subscribers' agreement; **Subscribers' agreement.**

(j) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six (6) months at an adequate rate theretofore filed with and approved by the commissioner; **Statement of subscribers.**

(k) A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by section 544 of this code is on hand; and **Financial and surplus statement.**

(l) A copy of each policy, endorsement and application form it then proposes to issue or use. **Forms.**

Such declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds. **Acknowledgment.**

Section 546. **Certificate of authority.** (1) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer. **Certificate of authority issued to attorney.**

(2) The commissioner may refuse, suspend or revoke the certificate of authority, in addition to other grounds therefor, for failure of the attorney to comply with any provision of this code. **Refusal, suspension, revocation for cause.**

Power of attorney.

Section 547. **Power of attorney.** (1) The rights and powers of the attorney of a reciprocal insurer shall be as provided in the power of attorney given it by the subscribers.

Required provisions.

(2) The power of attorney must set forth:

(a) The powers of the attorney;

(b) That the attorney is empowered to accept service of process on behalf of the insurer in actions against the insurer upon contracts exchanged;

(c) The general services to be performed by the attorney;

(d) The maximum amount to be deducted from advance premiums or deposits to be paid to the attorney and the general items of expense in addition to losses, to be paid by the insurer; and

(e) Except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount which amount shall be not less than one (1) nor more than ten (10) times the premium or premium deposit stated in the policy.

Permissive provisions.

(3) The power of attorney may:

(a) Provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;

(b) Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;

(c) Provide for the exercise of any right reserved to the subscribers directly or through their advisory committee; and

(d) Contain other lawful provisions deemed advisable.

(4) The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable, and no such power or agreement shall be used or be effective as to a domestic reciprocal insurer until approved by the commissioner.

Modifications by attorney and advisory committee.

Section 548. **Modifications.** Modifications of the terms of the subscribers' agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by the attorney and the subscribers' advisory committee. No such modification shall be effective retroactively, nor as to any insurance contract issued prior thereto.

Attorney's bond required.

Section 549. **Attorney's bond.** (1) Concurrently with the filing of the declaration provided for in section 545, the attorney of a domestic reciprocal insurer shall file with the commissioner a bond in favor of this state for the benefit of all persons damaged as a result of breach by the attorney of the conditions of his bond as set forth in subsection (2) hereof. The bond shall be executed by the attorney and by an authorized corporate surety, and shall be subject to the commissioner's approval.

Amount of bond—conditions.

(2) The bond shall be in the penal sum of twenty-five thousand dollars ($25,000), aggregate in form, conditioned that the attorney will faithfully account for all monies and other property of the insurer coming into his hands, and that he will not withdraw or appropriate to his own use from the funds of the insurer, any monies or property to which he is not entitled under the power of attorney.

Time for cancellation.

(3) The bond shall provide that it is not subject to cancellation unless thirty (30) days' advance notice in writing of cancellation is given both the attorney and the commissioner.

Action on bond.

Section 550. **Action on bond.** Action on the attorney's bond or to recover against any such deposit made in lieu thereof may be brought at any time by one or more subscribers suffering loss through a violation of its conditions, or by a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in and become part of the insurer's funds. The total aggregate liability of the surety shall be limited to the amount of the penalty of such bond.

Annual statement required.

Section 551. **Annual statement.** (1) The annual statement of a reciprocal insurer shall be made and filed by its attorney.

(2) The statement shall be supplemented by such in-

Commissioner may require supplements.

formation as may be required by the commissioner relative to the affairs and transactions of the attorney insofar as they relate to the reciprocal insurer.

Contributions to reciprocal insurer.

Section 552. **Contributions to insurer.** The attorney or other parties may advance to a domestic reciprocal insurer upon reasonable terms such funds as it may require from time to time in its operations. Sums so advanced shall not be treated as a liability of the insurer, and, except upon liquidation of the insurer, shall not be withdrawn or repaid except out of the insurer's realized earned surplus in excess of its minimum required surplus. No such withdrawal or repayment shall be made without the advance approval of the commissioner. This section does not apply to bank loans or to loans for which security is given.

Approval of commissioner.

Method of determining financial condition.

Section 553. **Financial condition — Method of determining.** In determining the financial condition of a reciprocal insurer the commissioner shall apply the following rules:

(1) He shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(2) The surplus deposits of subscribers shall be allowed as assets, except that any premium deposits delinquent for ninety (90) days shall first be charged against such surplus deposit.

(3) The surplus deposits of subscribers shall not be charged as a liability.

(4) All premium deposits delinquent less than ninety (90) days shall be allowed as assets.

(5) An assessment levied upon subscribers, and not collected, shall not be allowed as an asset.

(6) The contingent liability of subscribers shall not be allowed as an asset.

(7) The computation of reserves shall be based upon premium deposits other than membership fees and without any deduction for expenses and the compensation of the attorney.

Subscribers' qualifications.

Section 554. **Who may be subscribers.** Indviduals, partnerships, and corporations of this state may make application, enter into agreement for and hold policies or contracts in or with and be a subscriber of any domestic, foreign, or alien reciprocal insurer. Any corporation now or hereafter organized under the laws of this state shall, in addition to the rights, powers, and franchises specified in its articles of incorporation, have full power and authority as a subscriber to exchange insurance contracts through such reciprocal insurer. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and to be as fully granted as the rights and powers expressly conferred upon such corporations. Government or governmental agencies, state or political subdivisions thereof, boards, associations, estates, trustees or fiduciaries are authorized to exchange nonassessable reciprocal interinsurance contracts with each other and with individuals, partnerships and corporations to the same extent that individuals, partnerships and corporations are herein authorized to exchange reciprocal interinsurance contracts. Any officer, representative, trustee, receiver, or legal representative of any such subscriber shall be recognized as acting for or on its behalf for the purpose of such contract but shall not be personally liable upon such contract by reason of acting in such representative capacity.

Selection of advisory committee.

Section 555. **Subscribers' advisory committee.** (1) The advisory committee of a domestic reciprocal insurer exercising the subscribers' rights shall be selected under such rules as the subscribers adopt.

Qualification.

(2) Not less than two-thirds of such committee shall be subscribers other than the attorney, or any person employed by, representing, or having a financial interest in the attorney.

Duties of committee.

(3) The committee shall:

(a) Supervise the finances of the insurer;

(b) Supervise the insurer's operations to such extent as to assure conformity with the subscribers' agreement and power of attorney;

(c) Procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer; and

(d) Have such additional powers and functions as may be conferred by the subscribers' agreement.

Liability of subscribers not joint.

Section 556. **Subscribers' liability.** (1) The liability of each subscriber, other than as to a nonassessable policy, for the obligations of the reciprocal insurer shall be an individual, several and proportionate liability, and not joint.

Contingent assessment liability.

(2) Except as to a nonassessable policy, each subscriber shall have a contingent assessment liability, in the amount provided for in the power of attorney or in the subscribers' agreement, for payment of actual losses and expenses incurred while his policy was in force. Such contingent liability may be at the rate of not less than one (1) nor more than ten (10) times the premium or premium deposit stated in the policy, and the maximum aggregate thereof shall be computed in the manner set forth in section 558 of this chapter.

Policy must contain statement.

(3) Each assessable policy issued by the insurer shall contain a statement of the contingent liability.

Liability on judgment.

Section 557. **Subscribers' liability on judgment.** (1) No action shall lie against any subscriber upon any obligation claimed against the insurer until a final judgment has been obtained against the insurer and remains unsatisfied for thirty days.

Proportionate liability.

(2) Any such judgment shall be binding upon each subscriber only in such proportion as his interests may appear and in amount not exceeding his contingent liability, if any.

Assessments on subscribers—approval.

Section 558. **Assessments.** (1) Assessments may from time to time be levied upon subscribers of a domestic reciprocal insurer liable therefor under the terms of their policies by the attorney upon approval in advance by the subscribers' advisory committee and the commissioner; or by the commissioner in liquidation of the insurer.

Computation—subscribers' share of deficiency.

(2) Each subscriber's share of a deficiency for which an assessment is made, but not exceeding in any event his aggregate contingent liability as stated in accordance with section 556 of this chapter, shall be computed by

applying to the premium earned on the subscriber's policy or policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment.

Gross premium used as base.

(3) In computing the earned premiums for the purposes of this section, the gross premium received by the insurer for the policy shall be used as a base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy.

Offset prohibited.

(4) No subscriber shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or losses payable.

Time limit for assessments.

Section 559. **Time limit for assessments.** Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for, and shall pay his share of any assessment, as computed and limited in accordance with this chapter, if:

Notice.

(1) While his policy is in force or within one year after its termination, he is notified by either the attorney or the commissioner of his intentions to levy such assessment, or

Order to show cause.

(2) An order to show cause why a receiver, conservator, rehabilitator or liquidator of the insurer should not be appointed is issued while his policy is in force or within one year after its termination.

Aggregate liability.

Section 560. **Aggregate liability.** No one policy or subscriber as to such policy, shall be assessed or charged with an aggregate of contingent liability as to obligations incurred by a domestic reciprocal insurer in any one calendar year, in excess of the amount provided for in the power of attorney or in the subscribers' agreement, computed solely upon premium earned on such policy during that year.

Nonassessable policies— authority to extinguish contingent liability.

Section 561. **Nonassessable policies.** (1) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital stock required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee the commissioner shall issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for so long as all such surplus remains unimpaired.

Revocation upon impairment of surplus.

(2) Upon impairment of such surplus, the commissioner shall forthwith revoke the certificate. Such revocation shall not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after such revocation no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

Limitation on authority of commissioner.

(3) The commissioner shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state.

Distribution of savings.

Section 562. **Distribution of savings.** A reciprocal insurer may from time to time return to its subscribers any unused premiums, savings or credits accruing to their accounts. Any such distribution shall not unfairly discriminate between classes of risks, or policies, or between subscribers, but this shall not prevent retrospective rating, nor distribution on a retrospective plan, nor distribution varying as to classes of subscribers based on the experience of such subscribers.

Subscribers share in assets upon liquidation.

Section 563. **Subscribers' share in assets.** Upon the liquidation of a domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy obligations, the return of any contributions of the attorney or other persons to its surplus made as provided in section 552 of this chapter, and the return of any unused premium, savings, or credits then standing on subscribers' accounts, shall be distributed to its subscribers who were such within the twelve (12) months prior to the last termination of its certificate of authority, according to such reasonable formula as the commissioner may approve.

Merger or conversion permitted.

Approval by commissioner.

Section 564. **Merger or conversion.** (1) A domestic reciprocal insurer upon affirmative vote of not less than two-thirds of its subscribers who vote on such merger pursuant to due notice and the approval of the commissioner of the terms therefor, may merge with another reciprocal insurer or be converted to a stock or mutual insurer.

Capital or surplus requirements.

(2) Such a stock or mutual insurer shall be subject to the same capital or surplus requirements and shall have the same rights as a like domestic insurer transacting like kinds of insurance.

Disapproval for cause.

(3) The commissioner shall not approve any plan for such merger or conversion which is inequitable to subscribers, or which, if for conversion to a stock insurer, does not give each subscriber preferential right to acquire stock of the proposed insurer proportionate to his interest in the reciprocal insurer as determined in accordance with section 563 of this chapter and a reasonable length of time within which to exercise such right.

Impaired reciprocals—assessment for deficiency.

Section 565. **Impaired reciprocals.** (1) If the assets of a reciprocal insurer are at any time insufficient to discharge its liabilities, other than any liability on account of funds contributed by the attorney or others, and to maintain the required surplus, its attorney shall forthwith make up the deficiency or levy an assessment upon the subscribers for the amount needed to make up the deficiency; but subject to the limitation set forth in the power of attorney or policy.

Insurer failing to make up deficiency deemed insolvent.

(2) If the attorney fails to make up such deficiency or to make the assessment within thirty (30) days after the commissioner orders him to do so, or if the deficiency is not fully made up within sixty days after the date the assessment was made, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this code.

Assessment on liquidation.

(3) If liquidation of such an insurer is ordered, an assessment shall be levied upon the subscriber for such an amount, subject to limits as provided by this chapter, as the commissioner determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds contributed by the attorney or other persons, but including the reasonable cost of the liquidation.

CHAPTER 26 — REHABILITATION AND LIQUIDATION

Definitions.

Section 566. **Definitions.** For the purpose of this chapter:

"Impairment," "insolvency."

(1) ''Impairment'' or ''insolvency.'' The capital of a stock insurer or the surplus of a mutual or reciprocal insurer, shall be deemed to be impaired and the insurer shall be deemed to be insolvent, when such insurer is not possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock if a stock insurer, or the minimum surplus if a mutual or reciprocal insurer required by this code to be maintained for the kind or kinds of insurance it is then authorized to transact.

"Insurer."

(2) ''Insurer'' means any person, firm, corporation, association or aggregation of persons doing an insurance business and subject to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization or conservation by the commissioner or the equivalent insurance supervisory official of another state.

"Delinquency proceeding."

(3) ''Delinquency proceeding'' means any proceeding commenced against an insurer pursuant to this chapter for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer.

"State."

(4) ''State'' means any state of the United States and also the District of Columbia, Alaska, Hawaii and Puerto Rico.

"Foreign country."

(5) ''Foreign country'' means territory not in any state.

"Domiciliary state."

(6) ''Domiciliary state'' means the state in which an insurer is incorporated or organized, or in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become au-

thorized to do business in such state, has at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States, and any such insurer is deemed to be domiciled in such state.

"Ancillary state."

(7) "Ancillary state" means any state other than a domiciliary state.

"Reciprocal state."

(8) "Reciprocal state" means any state other than this state in which in substance and effect the provisions of the uniform insurers liquidation act, as defined in section 586 of this code, are in force, including the provisions requiring that the commissioner of insurance or equivalent insurance supervisory official be the receiver of a delinquent insurer.

"General assets."

(9) "General assets" means all property, real, personal, or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

"Preferred claim."

(10) "Preferred claim" means any claim with respect to which the law of the state or of the United States accords priority of payments from the general assets of the insurer.

"Special deposit claim."

(11) "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

"Secured claim."

(12) "Secured claim" means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow or otherwise, but not including special deposit claim or claims against general assets. The term also includes claims which more than four months prior to the commencement of delinquency proceedings in the state of

the insurer's domicile have become liens upon specific assets by reason of judicial process.

"Receiver."

(13) ''Receiver'' means receiver, liquidator, rehabilitator or conservator as the context may require.

District court jurisdiction of delinquency proceedings.

Section 567. **Jurisdiction of delinquency proceedings — Venue — Exclusiveness of remedy — Appeal.** (1) The district court is vested with exclusive original jurisdiction of delinquency proceedings under this chapter, and is authorized to make all necessary and proper orders to carry out the purposes of this chapter.

Venue.

(2) The venue of delinquency proceedings against a domestic insurer shall be in the county of the insurer's principal place of business. The venue of such proceedings against foreign and alien insurers shall be in Lewis and Clark county.

Delinquency proceedings brought in name of state.

(3) Delinquency proceedings pursuant to this chapter shall constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing or conserving an insurer, and no court shall entertain a petition for the commencement of such proceedings unless the same has been filed in the name of the state on the relation of the commissioner.

Appeal.

(4) An appeal shall lie to the supreme court from an order granting or refusing rehabilitation, liquidation, or conservation, and from every other order in delinquency proceedings having the character of a final order as to the particular portion of the proceedings embraced therein.

Procedure—delinquency proceedings—order to show cause.

Section 568. **Commencement of delinquency proceedings.** The commissioner shall commence any such proceedings by application to the court for an order directing the insurer to show cause why the commissioner should not have the relief prayed for. On the return of such order to show cause, and after a full hearing, the court shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of the policyholders, creditors, stockholders, members, subscribers or the public may require.

Injunction may issue.

Section 569. **Injunctions.** (1) Upon application by the commissioner for such an order to show cause, or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

(2) The court may at any time during a proceeding under this chapter issue such injunctions or orders as may be deemed necessary to prevent interference with the commissioner or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer or against its assets or any part thereof.

No bond required.

(3) Notwithstanding any other provision of law, no bond shall be required of the commissioner as a prerequisite for the issuance of any injunction or restraining order pursuant to this section.

Commissioner may be appointed receiver for rehabilitation. Grounds for rehabilitation.

Section 570. **Grounds for rehabilitation — Domestic insurers.** The commissioner may apply to the court for an order appointing him as receiver of and directing him to rehabilitate a domestic insurer upon one or more of the following grounds. That the insurer:

(1) Is impaired or insolvent;

(2) Has refused to submit any of its books, records, accounts or affairs to reasonable examination by the commissioner;

(3) Has concealed or removed records or assets or otherwise violated section 442 of this code;

(4) Has failed to comply with an order of the commissioner to make good an impairment of capital or surplus or both;

(5) Has transferred or attempted to transfer substantially its entire property or business, or has entered into any transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without having first obtained the written approval of the commissioner;

(6) Has wilfully violated its charter or articles of incorporation or any law of this state;

(7) Has an officer, director or manager who has refused to be examined under oath concerning its affairs;

(8) Has been or is the subject of an application for the appointment of a receiver, trustee, custodian or sequestrator of the insurer or its property otherwise than pursuant to the provisions of this code, but only if such appointment has been made or is imminent and its effect is or would be to oust the courts of this state of jurisdiction hereunder.

(9) Has consented to such an order through a majority of its directors, stockholders, members or subscribers;

(10) Has failed to pay a final judgment rendered against it in this state upon any insurance contract issued or assumed by it, within thirty (30) days after the judgment became final or within thirty (30) days after the time for taking an appeal has expired, or within thirty (30) days after dismissal of an appeal before final termination, whichever date is the later.

Receiver for liquidation.

Section 571. **Grounds for liquidation.** The commissioner may apply to the court for an order appointing him as receiver (if his appointment as receiver shall not be then in effect) and directing him to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this state, regardless of whether or not there has been a prior order directing him to rehabilitate such insurer, upon any of the grounds specified in section 570 of this chapter, or if such insurer:

Grounds for liquidation.

(1) Has ceased transacting business for a period of one year, or

(2) Is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian or sequestrator under any law except this code.

Receiver for conservation—foreign insurers.

Section 572. **Grounds for conservation — Foreign insurers.** The commissioner may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this state, of a foreign insurer upon any of the following grounds:

Grounds for conservation.

(1) Upon any of the grounds specified in sections 570 or 571 of this chapter, or

(2) Upon the ground that its property has been sequestrated in its domiciliary sovereignty or in any other sovereignty.

Receiver for conservation—alien insurers.

Section 573. **Grounds for conservation — Alien insurers.** The commissioner may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this state, of any alien insurer upon any of the following grounds:

Grounds for conservation.

(1) Upon any of the grounds specified in sections 570 or 571 of this chapter.

(2) Upon the ground that the insurer has failed to comply, within the time designated by the commissioner, with an order made by him to make good an impairment of its trusteed funds, or

(3) Upon the ground that the property of the insurer has been sequestrated in its domiciliary sovereignty or elsewhere.

Receiver for liquidation—foreign insurers—grounds for ancillary liquidation.

Section 574. **Grounds for ancillary liquidation — Foreign insurers.** The commissioner may apply to the court for an order appointing him as ancillary receiver of and directing him to liquidate the business of a foreign insurer having assets, business or claims in this state upon the appointment in the domiciliary state of such insurer of a receiver, liquidator, conservator, rehabilitator or other officer by whatever name called for the purpose of liquidating the business of such insurer.

Order of rehabilitation.

Section 575. **Order of rehabilitation — Termination.** (1) An order to rehabilitate a domestic insurer shall direct the commissioner forthwith to take possession of the property of the insurer and to conduct the business thereof, and to take such steps toward removal of the causes and conditions which have made rehabilitation necessary as the court may direct.

Order of liquidation.

(2) If at any time the commissioner deems that further efforts to rehabilitate the insurer would be useless, he may apply to the court for an order of liquidation.

Order of termination.

(3) The commissioner, or any interested person upon due notice to the commissioner, at any time may apply to the court for an order terminating the rehabilitation proceeedings and permitting the insurer to resume possession of its property and the conduct of its business, but no such order shall be made or entered except when, after a hearing, the court has determined that the purposes of the proceeeding have been fully accomplished.

Order of liquidation—domestic insurers.

Section 576. **Order of liquidation — Domestic insurers.** (1) An order to liquidate the business of a domestic insurer shall direct the commissioner forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as commissioner of insurance or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present such claims.

Order of dissolution.

(2) The commissioner may apply for and secure an order dissolving the corporate existence of a domestic insurer upon his application for an order of liquidation of such insurer or at any time after such order has been granted.

Order of liquidation—alien insurers.

Section 577. **Order of liquidation — Alien insurers.** An order to liquidate the business of a United States branch of an alien insurer having trusteed assets in this state shall be in the same terms as those prescribed for domestic insurers, save and except only that the assets of the business of such United States branch shall be the only assets included therein.

Order of conservation or ancillary liquidation of foreign, alien insurers.

Section 578. **Order of conservation or ancillary liquidation of foreign or alien insurers.** (1) An order to conserve the assets of a foreign or alien insurer shall require the commissioner forthwith to take possession of the property of the insurer within this state and to conserve it, subject to the further direction of the court.

(2) An order to liquidate the assets in this state of a

foreign insurer shall require the commissioner forthwith to take possession of the property of the insurer within this state and to liquidate it subject to the orders of the court and with due regard to the rights and powers of the domiciliary receiver, as provided in this chapter.

Commissioner shall liquidate property.

Section 579. **Conduct of delinquency proceedings against domestic and alien insurers.** (1) Whenever under this chapter a receiver is to be appointed in delinquency proceedings for a domestic or alien insurer, the court shall appoint the commissioner as such receiver. The court shall order the commissioner forthwith to take possession of the assets of the insurer and to administer the same under the orders of the court.

Procedure—domestic and alien insurers, commissioner takes possession of insurer's property.

(2) As a domiciliary receiver, the commissioner shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer, wherever located, as of the date of entry of the order directing him to rehabilitate or liquidate a domestic insurer or to liquidate the United States branch of an alien insurer domiciled in this state, and he shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are herein prescribed for ancillary receivers appointed in this state as to assets located in this state.

Commissioner vested with title.

Exception—rights of ancillary receivers.

(3) The filing or recording of the order directing possession to be taken, or a certified copy thereof, in any office where instruments affecting title to property are required to be filed or recorded shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded.

Recording order as evidence of title.

(4) The commissioner as domiciliary receiver shall be responsible for the proper administration of all assets coming into his possession or control. The court may at any time require a bond from him or his deputies if deemed desirable for the protection of such assets.

Commissioner shall administer assets.

Bond may be required.

(5) Upon taking possession of the assets of an insurer, the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are

Receiver conducts business.

authorized by this chapter for the purpose of rehabilitating, liquidating or conserving the affairs or assets of the insurer.

Commissioner may appoint deputies, employ assistants.

(6) In connection with delinquency proceedings, the commissioner may appoint one or more special deputy commissioners to act for him and he may employ such counsel, clerks and assistants as he deems necessary. The compensation of the special deputies, counsel, clerks or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of duties imposed upon them, special deputies shall possess all the powers given to and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceeeedings.

Procedure—foreign insurers.

Section 580. **Conduct of delinquency proceedings against foreign insurers.** (1) Whenever under this chapter an ancillary receiver is to be appointed in delinqency proceedings for an insurer not domiciled in this state, the court shall appoint the commissioner as ancillary receiver. The commissioner shall file a petition requesting the appointment on the grounds set forth in section 574 of this chapter:

Commissioner petitions to be appointed ancillary receiver for cause—sufficient assets.

(a) If he finds that there are sufficient assets of the insurer located in this state to justify the appointment of an ancillary receiver, or

Petition by claimants.

(b) If ten or more persons resident in this state having claims against such insurer file a petition with the commissioner requesting the appointment of such ancillary receiver.

Domiciliary receiver vested with title.

(2) The domiciliary receiver for the purpose of liquidating an insurer domiciled in a reciprocal state shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer located in this state, and he shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this state. He shall also be entitled to recover the other assets of the insurer located in this state, except that

Exception—rights of ancillary receivers.

upon the appointment of an ancillary receiver in this state, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this state, and shall pay the necessary expenses of the proceedings. All remaining assets he shall promptly transfer to the domiciliary receiver. Subject to the foregoing provisions, the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of such assets as a receiver of an insurer domiciled in this state.

Receiver may sue.

(3) The domiciliary receiver of an insurer domiciled in a reciprocal state may sue in this state to recover any assets of such insurer to which he may be entitled under the laws of this state.

Nonresidents may file claims with receiver.

Section 581. **Claims of nonresidents against domestic insurers.** (1) In a delinquency proceeding begun in this state against a domestic insurer, claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

Places of proving controverted claims.

(2) Controverted claims belonging to claimants residing in reciprocal states may either:

(a) Be proved in this state, or

(b) If ancillary proceedings have been commenced in such reciprocal states, may be proved in those proceedings. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appear and be heard is afforded the domiciliary receiver of this state, as provided in section 582 of this chapter with respect to ancillary proceedings in this state, the final allowance of such claim by the courts in the ancillary state shall be accepted in this state as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.

Claims against foreign insurers filed with receiver.

Section 582. **Claims against foreign insurers.** (1) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against such insurer who reside within this state may file claims either with the ancillary receiver, if any, appointed in this state, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceeedings.

Proof of controverted claims.

(2) Controverted claims belonging to claimants residing in this state may either:

(a) Be proved in the domiciliary state as provided by the law of that state, or

Procedure to prove claim in this state.

(b) If ancillary proceedings have been commenced in this state, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this state, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service at least forty days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver within thirty days after the giving of such notice shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceeding in this state involving adjudication of the claim. The final allowance of the claim by the courts of this state shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this state.

Required provisions—form of claim.

Section 583. **Form of claim — Notice — Hearing.** (1) All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable detail the amount of the claim, or the basis upon which amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims shall be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and shall be supported by such documents as may be material thereto.

Time for filing claim.

(2) All claims filed in this state shall be filed with the receiver, whether domiciliary or ancillary, in this state, on or before the last date of filing as specified in this chapter.

Time for reporting claim.

(3) Within ten days of the receipt of any claim, or within such further period as the court may, for good cause shown, fix, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court shall determine to such persons as shall appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.

Hearing after notice.

Appealable order.

(4) At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order shall be deemed to be an appealable order.

Priority of claims—domestic insurer.

Section 584. **Priority of certain claims.** (1) In a delinquency proceeding against an insurer domiciled in this state, claims owing to residents of ancillary states shall be preferred claims if like claims are preferred under the laws of this state. All such claims owing to residents or nonresidents shall be given equal priority of payment from general assets regardless of where such assets are located.

Priority of claims—foreign insurer.

(2) In a delinquency proceeding against an insurer domiciled in a reciprocal state, claims owing to residents of this state shall be preferred if like claims are preferred by the laws of that state.

Special deposit claims.

(3) The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other state shall be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such

deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

Secured claims.

(4) The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this chapter, or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amounts shall be conclusive; otherwise the amount shall be determined in the delinquency proceeding in the domiciliary state.

Attachment, garnishment prohibited pending delinquency proceedings.

Section 585. **Attachment and garnishment of assets.** During the pendency of delinquency proceedings in this or any reciprocal state, no action or proceeding in the nature of an attachment, garnishment or execution shall be commenced or maintained in the courts of this state against the delinquent insurer or its assets. Any lien obtained for any such action or proceeding within four months prior to the commencement of any such delinquency proceeding or at any time thereafter shall be void as against any rights arising in such delinquency proceeding.

Uniform insurers liquidation act.

Section 586. **Uniform insurers liquidation act.** (1) Paragraphs (2) to (13) inclusive, of section 566, together with sections 568, 569, and 579 through 585 constitute and may be referred to as the ''uniform insurers liquidation act.''

(2) The uniform insurers liquidation act shall be so interpreted and construed as to effectuate its general

purpose to make uniform the law of those states that enact it. To the extent that its provisions when applicable conflict with other provisions of this chapter, the provisions of such act shall control.

Deposit of monies—delinquency proceedings.

Section 587. **Deposit of monies collected.** The monies collected by the commissioner in a proceeding under this chapter shall be from time to time deposited in one or more state or national banks, savings banks or trust companies, and in the case of the insolvency or voluntary or involuntary liquidation of any such depositary which is an institution organized and supervised under the laws of this state, such deposits shall be entitled to priority of payment on an equality with any other priority given by the banking laws of this state. The commissioner may in his discretion deposit such monies or any part thereof in a national bank or trust company as a trust fund.

Exemption from filing fees.

Section 588. **Exemption from fees.** The commissioner shall not be required to pay any fee to any public officer in this state for filing, recording, issuing a transcript or certificate or authenticating any paper or instrument pertaining to the exercise by the commissioner of any of the powers or duties conferrred upon him under this chapter, whether or not such paper or instrument be executed by the commissioner or his deputies, employees or attorneys of record and whether or not it is connected with the commencement of any action or proceeding by or against the commissioner, or with the subsequent conduct of such action or proceeding.

Authority of commissioner to borrow money—approval of court.

Section 589. **Borrowing on pledge of assets.** For the purpose of facilitating the rehabilitation, liquidation, conservation or dissolution of an insurer pursuant to this chapter, the commissioner may, subject to the approval of the court, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness therefor and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property, whether real, personal or mixed, of such insurer, and the commissioner subject to the approval of the court shall have power to take any and all other action necessary and proper to consummate any such loan and to provide for the repayment thereof. The commissioner shall be under no obligation personally or in his official capacity to repay any loan made pursuant to this section.

Date of order of liquidation fixes rights, liabilities.

Section 590. **Date rights fixed on liquidation.** The rights and liabilities of the insurer and of its creditors, policyholders, stockholders, members, subscribers and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date on which the order directing the liquidation of the insurer is filed in the office of the clerk of the court which made the order, subject to the provisions of this chapter with respect to the rights of claimants holding contingent claims.

Transfers, liens made 4 months prior to order to show cause void.

Section 591. **Voidable transfers.** (1) Any transfer of, or lien upon, the property of an insurer which is made or created within four months prior to the granting of an order to show cause under this chapter with the intent of giving to any creditor a preference or of enabling him to obtain a greater percentage of his debt than any other creditor of the same class and which is accepted by such creditor having reasonable cause to believe that such preference will occur, shall be voidable.

Participant's personal liability and duty to account.

(2) Every director, officer, employee, stockholder, member, subscriber and any other person acting on behalf of such insurer who shall be concerned in any such act or deed and every person receiving thereby any property of such insurer or the benefit thereof shall be personally liable therefor and shall be bound to account to the commissioner.

Authority to avoid transfers, liens except as to bona fide holder for value.

(3) The commissioner as receiver in any proceeding under this chapter may avoid any transfer of or lien upon the property of an insurer which any creditor, stockholder, subscriber or member of such insurer might have avoided and may recover the property so transferred unless such person was a bona fide holder for value prior to the date of the entering of an order to show cause under this chapter. Such property or its value may be recovered from anyone who has received it except a bona fide holder for value as herein specified.

Priority of claims for compensation.

Section 592. **Priority of claims for compensation.** (1) Compensation actually owing to employees other than officers of an insurer, for services rendered within three months prior to the commencement of a proceeding against the insurer under this chapter, but not exceeding five hundred dollars ($500) for each employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the commissioner may be paid as soon as practicable after the proceeding has been commenced; except that at all times the commissioner shall reserve such funds as will in his opinion be sufficient for the expenses of administration.

(2) Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of such employees.

Offsets—mutual debts or credits.

Section 593. **Offsets.** (1) In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this chapter, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in subsection (2) below.

(2) No offset shall be allowed in favor of any such person where:

Offset not allowed except to claimant.

(a) The obligation of the insurer to such person would not at the date of the entry of any liquidation order or otherwise, as provided in section 590, entitle him to share as a claimant in the assets of the insurer, or

Offset not allowed on purchased obligation.

(b) The obligation of the insurer to such person was purchased by or transferred to such person with a view of its being used as an offset, or

Offset not allowed on assessment or subscrpition.

(c) The obligation of such person is to pay an assessment levied against the members of a mutual insurer, or against the subscribers of a reciprocal insurer, or is to pay a balance upon the subscription to the capital stock of a stock insurer.

Contingent and unliquidated claims.

Section 594. **Allowance of certain claims.** (1) No contingent and unliquidated claim shall share in a distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made pursuant to this chapter, except that such claim shall be considered, if properly presented, and may be allowed to share where:

Time for filing.

(a) Such claim becomes absolute against the insurer on or before the last day for filing claims against the assets of such insurer, or

Surplus.

(b) There is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent.

Cause of action.

(2) Where an insurer has been so adjudicated to be insolvent any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be alllowed:

Proof of judgment.

(a) If it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured, and

No further claim.

(b) If such person shall furnish suitable proof, unless the court for good cause shown shall otherwise direct, that no further valid claim against such insurer arising out of his cause of action other than those already presented can be made, and

Total liability.

(c) If the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than its maximum liability would be were it not in liquidation.

Limitations on evidence.

(3) No judgment against such an insured taken after the date of entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default, or by collusion prior to the entry of the liquidation order shall be considered as conclusive evidence in the liquidation proceedings, either of the liability of such insured to such person upon such cause of action or of the amount of damages to which such person is therein entitled.

Limitations on amount of claim.

(4) No claim of any secured claimant shall be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation or such other date set by the court for

determining rights and liabilities as provided in section 590 unless the claimant shall surrender his security to the commissioner, in which event the claim shall be allowed in the full amount for which it is valued.

Section 595. **Time to file claims.** (1) If upon the entry of an order of liquidation under this chapter or at any time thereafter during liquidation proceedings the insurer shall not be clearly solvent, the court shall, upon hearing after such notice it deems proper, make and enter an order adjudging the insurer to be insolvent.

Order of insolvency.

(2) After the entry of the order of insolvency, regardless of any prior notice that may have been given to creditors, the commissioner shall notify all persons who may have claims against such insurer to file such claims with him, at a place and within the time specified in the notice, or that such claims shall be forever barred. The time specified in the notice shall be as fixed by the court for filing of claims and which shall be not less than six (6) months after the entry of the order of insolvency. The notice shall be given in such manner and for such reasonable period of time as may be ordered by the court.

Notice fixing date for filing claims.

Section 596. **Report and petition for assessment.** Within three years after the date of the entry of an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer, the commissioner may make and file his report and petition to the court setting forth:

Report and petition for assessment within three years after date of order of rehabilitation or liquidation.

(1) The reasonable value of the assets of the insurer;

(2) The liabilities of the insurer to the extent thus far ascertained by the commissioner;

(3) The aggregate amount of the assessment, if any, which the commissioner deems reasonably necessary to pay all claims, the costs and expenses of the collection of the assessments and the costs and expenses of the delinquency proceedings in full;

(4) Any other information relative to the affairs or property of the insurer that the commissioner deems material.

Order and levy of assessment.

Section 597. **Order and levy of assessment.** (1) Upon the filing and reading of the report and petition provided for in section 596, the court, ex-parte, may order the commissioner to assess all members or subscribers of the insurer who may be subject to such an assessment, in such an aggregate amount as the court finds reasonably necessary to pay all valid claims as may be timely filed and proved in the delinquency proceedings, together with the costs and expenses of levying and collecting assessments and the costs and expenses of the delinquency proceedings in full. Any such order shall require the commissioner to assess each such member or subscriber for his proportion of the aggregate assessment, according to such reasonable classification of such members or subscribers and formula as may be made by the commissioner and approved by the court.

Additional assessments within three years.

(2) The court may order additional assessments upon the filing and reading of any amendment or supplement to the report and petition referred to in subsection (1) above, if such amendment or supplement is filed within three (3) years after the date of the entry of the order of rehabilitation or liquidation.

(3) After the entry of the order to levy and assess members or subscribers of an insurer referred to in (1) or (2) above, the commissioner shall levy and assess members or subscribers in accordance with the order.

Total of assessments limited to amount of policy.

(4) The total of all assessments against any member or subscriber with respect to any policy, whether levied pursuant to this chapter or pursuant to any other provision of this code, shall be for no greater amount than that specified in the policy or policies of the member or subscriber and as limited under this code, except as to any policy which was issued at a rate of premium below the minimum rate lawfully permitted for the risk insured, in which event the assessment against any such policyholder shall be upon the basis of the minimum rate for such risk.

(5) No assessment shall be levied against any member or subscriber with respect to any nonassessable policy issued in accordance with this code.

Assessment prima facie correct.

Section 598. **Assessment prima facie correct — Notice —Payment — Proceedings to collect.** (1) Any assessment of a subscriber or member of an insurer made by the commissioner pursuant to the order of court fixing the aggregate amount of the assessment against all members or subscribers and approving the classification and formula made by the commissioner under section 597 shall be prima facie correct.

Notice of assessment.

(2) Each member or subscriber shall be notified of the amount of assessment to be paid by him by written notice mailed to the address of the member or subscriber last of record with the insurer. Failure of the member or subscriber to receive the notice so mailed, within the time specified therein for the payment of the assessment or at all, shall be no defense in any proceeding to collect the assessment.

Order to show cause on failure to pay.

(3) If any such member or subscriber fails to pay the assessment within the period specified in the notice, which period shall not be less than twenty (20) days after mailing, the commissioner may obtain an order in the delinquency proceedings requiring the member or subscriber to show cause at a time and place fixed by the court why judgment should not be entered against such member or subscriber for the amount of the assessment together with all costs, and a copy of the order and a copy of the petition therefor shall be served upon the member or subscriber within the time and in the manner designated in the order.

Judgment.

(4) If the subscriber or member after due service of a copy of the order and petition referred to in (3) above is made upon him:

(a) Fails to appear at the time and place specified in the order, judgment shall be entered against him as prayed for in the petition; or

(b) Appears in the manner and form required by law in response to the order, the court shall hear and determine the matter and enter a judgment in accordance with its decision.

Enforcement of judgment.

(5) The commissioner may collect any such assessment through any other lawful means.

CHAPTER 27 —
TRUSTEED ASSETS OF ALIEN INSURERS

Section 599. **Scope of chapter.** This chapter applies to all alien insurers using Montana as a state of entry to transact insurance in the United States.

Required deposit—alien insurer using state for entry.

Section 600. **Required deposit of assets.** (1) An alien insurer may use Montana as a state of entry to transact insurance in the United States by making and maintaining in this state a deposit of assets in trust with a solvent bank or trust company approved by the commissioner.

Amount of deposit.

(2) The deposit, together with other trust deposits of the insurer held in the United States for the same purpose, shall be in amount not less than the deposits required of an alien insurer under section 54 (1) of this code, and shall consist of cash and/or securities of the same character and diversification as those eligible for the investment of the funds of domestic insurers under chapter 6 of this code.

"Trusteed assets."

(3) Such a deposit may be referred to as "trusteed assets."

Existing trusts.

Section 601. **Existing trusts.** All trusts of trusteed assets heretofore created and now existing shall be continued under the instruments creating them, unless inconsistent with the provisions of this chapter.

Purpose, duration of deposit.

Section 602. **Purpose and duration.** The deposit required by section 600 shall be for the benefit, security and protection of the policyholders, or policyholders and creditors, of the insurer in the United States. It shall be maintained as long as there is outstanding any liability of the insurer arising out of its insurance transactions in the United States.

Written trust agreement required.

Section 603. **Trust agreement; approval.** (1) The deposit referred to in section 600 shall be made under a written trust agreement between the insurer and the trustee, consistent with the provisions of this chapter, and shall be authenticated in such form and manner as the commissioner may designate or approve.

Effective on approval.

(2) The agreement shall not be effective until filed with and approved in writing by the commissioner. The commissioner shall not approve any trust agreement found by him not to be in compliance with law, or the terms of which do not in fact provide reasonably ade-

quate protection for the insurer's policyholders or policyholders and creditors in the United States.

Section 604. **Authority to execute trust agreement.** An alien insurer using or proposing to use Montana as a state of entry to transact insurance in the United States, whether or not it is then authorized to transact insurance in this state, is authorized to make and execute any trust agreement required by this chapter.

Authority of alien insurer to execute trust agreement.

Section 605. **Amendment of trust agreement.** A trust agreement may be amended, but the amendment shall not be effective until filed with and approved in writing by the commissioner as being in compliance with this chapter.

Amendment effective on approval.

Section 606. **Withdrawal of approval.** The commissioner's approval of any trust agreement or of any amendment thereof may be withdrawn by the commissioner if he finds upon hearing, after notice thereof to the insurer and the trustee or trustees, that the requisites for such approval, as provided in this chapter, no longer exist.

Withdrawal of approval for cause.

Section 607. **Title to trusteed assets.** Title to the trusteed assets is vested in the trustee or trustees and their successors for the purposes of the trust deposit, and the trust agreement shall so provide.

Title of assets vested in trustees.

Section 608. **Assets kept separate.** The trustee shall keep the trusteed assets separate from other assets and shall maintain a record thereof sufficient to identify trusteed assets at all times.

Trusteed assets kept separate.

Section 609. **Statement of trustee.** (1) The trustee of trusteed assets shall, from time to time, file with the commissioner statements, in such form as he may designate and request in writing, certifying the character of such assets and the amounts thereof.

Statement of trustee on request.

(2) If the trustee fails to file any such statement after request therefor and expiration of a reasonable time thereafter, the commissioner may suspend or revoke the certificate of authority of the insurer.

Effect of noncompliance.

Section 610. **Examination of assets.** The commissioner may examine trusteed assets of any insurer at any time in accordance with the same conditions and procedures

Commissioner may examine assets.

as govern the examination of insurers in general under chapter 2 of this code.

Approval required—withdrawal of assets.

Section 611. **Withdrawal of assets.** (1) The trust agreement shall provide, in substance, that no withdrawals of trusteed assets shall be made by the insurer or permitted by the trustee without the written authorization or approval of the commissioner in advance thereof, except as follows:

Earnings paid to United States manager.

(a) Any or all income, earnings, dividends or interest accumulations of the trusteed assets may be paid over to the United States manager of the insurer upon request of the insurer or the manager.

Substitution of securities.

(b) For substitution, coincidentally with such withdrawal, of other securities or assets of value at least equal in amount to those being withdrawn, if such substituted securities or assets are likewise such as are eligible for investment of the funds of domestic insurers under chapter 6 of this code, if such withdrawal is requested in writing by the insurer's United States manager pursuant to general or specific written authority previously given or delegated by the insurer's board of directors or other similar governing body, and a copy of such authority has been filed with the trustee.

Deposits in other states.

(c) For the purpose of making deposits required by law in any state in which the insurer is or thereafter becomes an authorized insurer, for the protection of the insurer's policyholders or policyholders and creditors in such state or in the United States, if such withdrawal does not reduce the insurer's deposit in this state to an amount less than the minimum deposit required under section 54 (1) (c) (i) and (ii) of this code. The trustee shall transfer any assets so withdrawn and in the amount so required to be deposited in the other state direct to the depositary required to receive such deposit in such other state, as certified in writing by the public official having supervision of insurance in the other state.

Transfer of trusteed assets to liquidator, conservator, rehabilitator.

(d) For the purpose of transferring the trusteed assets to an official liquidator, conservator or rehabilitator pursuant to the order of a court of competent jurisdiction.

Approval limited to excess assets.

(2) The commissioner shall so authorize or approve

withdrawal of only such assets as are in excess of the amount of assets required to be so held in trust under section 600, or as may otherwise be consistent with the provisions of this chapter.

Suspension of right of withdrawal on insolvency.

(3) If at any time the insurer becomes insolvent, or if its assets held in the United States are less in amount than as required under section 54 (1) (c) of this code, upon determination thereof the commissioner shall in writing order the trustee to suspend the right of the insurer or any other person to withdraw assets as authorized under subdivisions (a), (b) and (c) of subsection (1) above, and the trustee shall comply with such order and until the further order of the commissioner.

Substitution of trustee for cause.

Section 612. **Substitution of trustee.** (1) A new trustee or new trustees may be substituted for the original trustee or trustees of trusteed assets in the event of a vacancy or for other proper cause. Any such substitution shall be subject to the commissioner's approval.

Substitution in event of vacancy.

(2) If the trustees of any trusteed assets heretofore created are individuals, and if the number of such trustees is reduced to less than three (3) by death, resignation or otherwise, the commissioner shall require that there be substituted for such trustees a bank or trust company in this state approved by him.

Canadian insurers— United States manager defined.

Section 613. **Canadian insurers.** The provisions of this chapter applicable to a United States manager shall, in the case of insurers domiciled in Canada, be deemed to refer to the president, vice-president, secretary or treasurer of such a Canadian insurer.

CHAPTER 28 —
FRATERNAL BENEFIT SOCIETIES

Fraternal benefit societies defined.

Section 614. **Fraternal benefit societies defined.** Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of section 618 (b) of this chapter whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society.

"Society" defined.

When used in this chapter the word "society," unless otherwise indicated, means fraternal benefit society.

Lodge system defined.

Section 615. **Lodge system defined.** A society having a supreme legislative or governing body and subordinate lodges or branches by whatever name known, into which members are elected, initiated or admitted in accordance with its constitution, laws, ritual and rules, which subordinate lodges or branches are required by the laws of the society to hold regular meetings at least once in each month, shall be deemed to be operating on the lodge system.

Representative form of government defined.

Section 616. **Representative form of government defined.** A society shall be deemed to have a representative form of government when:

Requirements—elected governing body.

(1) It provides in its constitution or laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members of such body as may be prescribed by the society's constitution and laws;

Votes required.

(2) The representatives elected constitute a majority in number and have not less than two-thirds of the votes nor less than the votes required to amend its constitution and laws;

Meetings.

(3) The meetings of the supreme legislative or governing body and the election of officers, representatives or delegates are held as often as once in four (4) calendar years;

Board of directors.

(4) The society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by such body and having powers and duties delegated to it in the constitution or laws of the society;

Election of board—vacancy.

(5) Such board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of such body;

(6) The officers are elected either by the supreme legislative or governing body or by the board of directors; and

Election of officers.

(7) The members, officers, representatives or delegates shall not vote by proxy.

Vote by proxy prohibited.

Section 617. **Chapter exclusive; applicability of other laws.** Except as herein provided, societies shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose. No law hereafter enacted shall apply to them, unless they be expressly designated therein.

This chapter exclusive.

Section 618. **Exempted societies.** (1) Nothing contained in this chapter shall be so construed as to affect or apply to:

Exempted societies.

(a) Grand or subordinate lodges of societies, orders or asssociations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

Benefits provided through local lodges.

(b) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, and the ladies' societies or ladies' auxiliaries to such orders, societies or asssociations;

Craft societies and auxiliaries.

(c) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than four hundred dollars ($400) or disability benefits of not more than three hundred fifty dollars ($350) to any person in any one year, or both; or

Domestic societies limiting death benefits to $400—limited membership.

(d) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than four hundred dollars ($400) or for disability benefits of not more than three hundred fifty dollars ($350) to any one person in any one year, or both.

Religious charitable societies—limiting death benefits to $400.

(2) Any such society or asssociation described in clauses (c) or (d), above, which provides for death or disability benefits for which benefit certificates are

Societies issuing benefit certificates having more than 1,000 members not exempt.

issued, and any such society or association included in paragraph (d) which has more than one thousand (1,000) members, shall not be exempted from the provisions of this chapter but shall comply with all requirements thereof.

Exempt societies cannot allow compensation.

(3) No society which, by the provisions of this section, is exempt from the requirements of this chapter, except any society described in paragraph (b), above, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

Societies providing accident benefits not exempt except as to medical examination, valuation of benefit certificates, incontestability.

(4) Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this chapter except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

Commissioner may require information.

(5) The commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this chapter.

Insurance laws do not apply to exempt societies.

(6) Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this state.

Existing societies—renewal of licenses.

Section 619. **Annual license.** Societies which are now authorized to transact business in this state may continue such business until the first day of June next succeeding the effective date of this chapter. The authority of such societies and all societies hereafter licensed, may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding June. However, a license so issued shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the society shall pay the commissioner ten dollars ($10). A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

License fee.

Foreign or alien societies—licenses.

Section 620. **Foreign or alien society — Admission.** (1) No foreign or alien society shall transact business in this state without a license issued by the commissioner. Any such society may be licensed to transact business in this state upon filing with the commissioner:

Requirements for admission.

(a) A duly certified copy of its charter or articles of incorporation;

(b) A copy of its constitution and laws, certified by its secretary or corresponding officer;

(c) A power of attorney to the commissioner as prescribed in section 665;

(d) A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the commissioner;

(e) A certificate from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein;

(f) Copies of its certificate forms; and

(g) Such other information as he may deem necessary; and upon a showing that its assets are invested in accordance with the provisions of this chapter.

Qualifications.

(2) Any foreign or alien society desiring admission to this state shall have the qualifications required of domestic societies organized under this chapter.

Suspension, revocation or refusal of license—foreign or alien society.

Section 621. **Suspension, revocation or refusal of license of foreign or alien society.** (1) When the commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this state:

(a) Has exceeded its powers;

(b) Has failed to comply with any of the provisions of this chapter;

(c) Is not fulfilling its contracts in good faith; or

(d) Is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public;

He shall notify the society of his findings, state in writing the reasons for his dissatisfaction and require the society to show cause on a date named why its license should not be suspended, revoked or refused. If on such date the society does not present good and sufficient reason why its authority to do business in this state should not be suspended, revoked or refused, he may suspend or refuse the license of the society to do business in this state until satisfactory evidence is furnished to him that such suspension or refusal should be withdrawn or he may revoke the authority of the society to do business in this state.

Existing contracts preserved.

(2) Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this state during the time such society was legally authorized to transact business herein.

Procedure—organization of fraternal benefit society.

Section 622. **Organization — Incorporation.** The organization of a society shall be governed as follows:

Persons who may submit articles of incorporation.

Seven (7) or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer, competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

Required provisions—name.

(1) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

Purposes.

(2) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this chapter, provided that any lawful social, intellectual, educational, charitable, benevolent, moral, fraternal or religious advantages may be set forth among the purposes of the society; and

Names of incorporators, officers.

(3) The names and residences of the incorporators and the names, residences and official titles of all the

officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate.

Filing articles and documents required.

Section 623. **Filing articles and documents — Preliminary certificate.** Such articles of incorporation, duly certified copies of the constitution, laws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year, shall be filed with the commissioner, who may require such further information as he deems necessary. The bond with sureties approved by the commissioner shall be in such amount, not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000), as required by the commissioner. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as hereinafter provided.

Bond required.

Preliminary certificate.

Certificate valid after one year only on securing 500 applicants.

Section 624. **Time for completing organization.** No preliminary certificate granted under the provisions of this section shall be valid after one year from its date or after such further period, not exceeding one year, as may be authorized by the commissioner upon cause shown, unless the five hundred (500) applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the preliminary certificate, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as hereinafter provided.

Completion— one year.

Section 625. **Initial solicitations and qualifications.**

Society may solicit members, collect premiums.

Upon receipt of a preliminary certificate from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

No other liability permitted until organization is completed—requirements.

Aggregate of applications.

(1) Actual bona fide applications for death benefits have been secured aggregating at least five hundred thousand dollars ($500,000) on not less than five hundred (500) lives;

Evidence of insurability.

(2) All such applicants for death benefits shall have furnished evidence of insurability satisfactory to the society;

Certificates approved by medical examiner.

(3) Certificates of examinations or acceptable declarations of insurability have been duly filed and approved by the chief medical examiner of the society;

Ten subordinate lodges established.

(4) Ten (10) subordinate lodges or branches have been established into which the five hundred (500) applicants have been admitted;

List of applicants submitted to commissioner.

(5) There has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

Statement of paid-in premiums.

(6) It shall have been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of such society, that at least five hundred (500) applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least twenty-five hundred dollars ($2,500), all of which shall be credited to the fund or funds from which benefits are to be paid and no part of which may be used for expenses. Such advance premiums shall be held in trust during the period

Advance premiums held in trust.

of organization and if the society has not qualified for a certificate of authority within one year, as herein provided, the premiums shall be returned to the applicants.

Certificate of authority—effect as evidence.

Section 626. **Certificate of compliance; certified copy as evidence.** The commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to the society a certificate to that effect and that the society is authorized to transact business pursuant to the provisions of this chapter. The certificate shall be prima facie evidence of the existence of the society at the date of such certificate. The commissioner shall cause a record of such certificate to be made. A certified copy of such record may be given in evidence with like effect as the original certificate.

Power of societies to adopt constitution and laws.

Section 627. **Constitution and laws; general powers.** (1) Every society shall have the power to adopt a constitution and laws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of its members from time to time. It shall have the power to change, alter, add to or amend such constitution and laws.

Incidental powers.

(2) A society shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

Existing incorporated societies—powers.

Section 628. **Corporate powers retained.** Any incorporated society authorized to transact business in this state at the time this chapter becomes effective may thereafter exercise all the rights, powers and privileges prescribed in this chapter and in its charter or articles of incorporation as far as consistent with this chapter. A domestic society shall not be required to reincorporate.

Existing voluntary associations may incorporate within one year.

Section 629. **Existing voluntary associations — May incorporate.**

(1) After one year from the effective date of this chapter, no unincorporated or voluntary association shall be permitted to transact business in this state as a fraternal benefit society.

(2) Any domestic voluntary association now author-

ized to transact business in this state may incorporate and shall receive from the commissioner a permanent certificate of incorporation as a fraternal benefit society when:

(a) It has completed its conversion to an incorporated society not later than one year from the effective date of this chapter;

(b) It has filed its articles of incorporation and has satisfied the other requirements described in sections 622 through 626; and

(c) The commissioner has made such examination and procured whatever additional information he deems advisable.

(3) Every voluntary association so incorporated shall incur the obligations and enjoy the benefits thereof the same as though originally incorporated, and such corporation shall be deemed a continuation of the original voluntary association. The officers thereof shall serve through their respective terms as provided in the original articles of association, but their successors shall be elected and serve as provided in its articles of incorporation. Incorporation of a voluntary association shall not affect existing suits, claims or contracts.

Domestic society may amend.

Section 630. **Articles of incorporation, constitution and laws — Amendments — Synopsis — Certified copies as evidence.** (1) A domestic society may amend its articles of incorporation, constitution or laws in accordance with the provisions thereof by action of its supreme legislative or governing body at any regular or special meeting thereof or, if its articles of incorporation, constitution or laws so provide, by referendum. Such referendum may be held in accordance with the provisions of its articles of incorporation, constitution or laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges or branches. No amendment submitted for adoption by referendum shall be adopted unless, within six (6) months from the date of submission thereof, a majority of all of the voting members of the society shall have signified their consent to such amendment by one of the methods herein specified.

Approval of amendments required.

(2) No amendment to the articles of incorporation, constitution or laws of any domestic society shall take effect unless approved by the commissioner, who shall approve such amendment if he finds it has been duly adopted and is not inconsistent with any requirement of the laws of this state or with the character, objects and purposes of the society. Unless the commissioner disapproves any such amendment within sixty (60) days after the filing of same, such amendment shall be considered approved. The approval or disapproval of the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case he disapproves the amendment, the reasons therefor shall be stated in the written notice.

Time of approval.

Copies furnished to members.

(3) Within ninety (90) days from the approval thereof by the commissioner, all such amendments, or a synopsis thereof, shall be furnished by the society to all members either by mail or by publication in full in the official organ of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which show that same have been duly addressed and mailed, shall be prima facie evidence that such amendments or synopsis thereof, have been furnished the addressee.

Filing of amendments—foreign or alien societies.

(4) Every foreign or alien society authorized to do business in this state shall file with the commissioner a duly certified copy of all amendments of, or additions to, its articles of incorporation, constitution or laws within ninety (90) days after the enactment of same.

Effect as evidence.

(5) Printed copies of the constitution or laws as amended, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

Society may deny authority to waive.

Section 631. **Waiver.** The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

Section 632. **Location of office — Place of meeting —**

Principal office.

Meetings.

Records in English language. (1) The principal office of any domestic society shall be located in this state. The meetings of its supreme legislative or governing body may be held in any state, district, province or territory wherein such society has at least five (5) subordinate branches and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state.

Minutes in English.

(2) The minutes of the proceedings of the supreme or governing body and of the board of directors or corresponding body of a society shall be in the English language.

Power to hold real property for institutions.

Section 633. **Institutions.** (1) It shall be lawful for a society to create, maintain and operate charitable, benevolent or educational institutions for the benefit of its members and their families and dependents and for the benefit of children insured by the society. For such purpose it may own, hold or lease personal property or real property located within or without this state, with necessary buildings thereon. Such property shall be reported in every annual statement but shall not be allowed as an admitted asset of such society.

Institutions not operated for profit.

(2) Maintenance, treatment and proper attendance in any such institution may be furnished free or a reasonable charge may be made therefor, but no such institution shall be operated for profit. The society shall maintain a separate accounting of any income and disbursements under this section and report them in its annual statement.

Ownership of funeral homes prohibited.

(3) No society shall own or operate funeral homes or undertaking establishments.

Qualifications for membership.

Section 634. **Qualifications for membership.** A society may admit to benefit membership any person not less than fifteen (15) years of age, nearest birthday, who has furnished evidence of insurability acceptable to the society. Any such member who shall apply for additional benefits more than six (6) months after becoming a benefit member shall furnish additional evidence of insurability acceptable to the society.

Rights and privileges—minors, social members.

Any person admitted prior to attaining the full age of twenty-one (21) years shall be bound by the terms of the application and certificate and by all the laws and rules of the society and shall be entitled to all the rights and privileges of membership therein to the same extent as though the age of majority had been attained at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs.

Provision for member's share of deficiency.

Section 635. **Member's share of deficiency.** A society shall provide in its constitution or laws that if its reserves as to all or any class of certificates become impaired its board of directors or corresponding body may require that there shall be paid by the member to the society the amount of the member's equitable proportion of such deficiency as ascertained by its board, and that if the payment be not made it shall stand as an indebtedness against the member's certificate and draw interest not to exceed five percent (5%) per annum compounded annually.

Provision for benefits.

Section 636. **Benefits.** (1) A society authorized to do business in this state may provide for the payment of:

(a) Death benefits in any form;

(b) Endowment benefits;

(c) Annuity benefits;

(d) Temporary or permanent disability benefits as a result of disease or accident;

(e) Hospital, medical or nursing benefits due to sickness or bodily infirmity or accident; and

(f) Monument or tombstone benefits to the memory of deceased members not exceeding in any case the sum of three hundred dollars ($300).

(2) Such benefits may be provided on the lives of members or, upon application of a member, on the lives of a member's family, including the member, the member's spouse and minor children, in the same or separate certificates.

Provision for benefits on lives of minors.

Section 637. **Benefits on lives of children.** (1) A society may provide for benefits on the lives of children under the minimum age for adult membership but not greater than twenty-one (21) years of age at time of application therefor, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with the provisions of section 636 of this chapter. A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.

Provision for changing beneficiaries.

(2) A society shall have power to provide for the designation and changing of designation of beneficiaries in the certificates providing for such benefits and to provide in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith.

Powers to grant paid-up nonforfeiture benefits, cash surrender values, loans, other lawful options.

Section 638. **Nonforfeiture benefits, cash surrender values, certificate loans and other options.** (1) A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans and such other options as its laws may permit. As to certificates issued on and after the effective date of this chapter, a society shall grant at least one paid-up nonforfeiture benefit, except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts or contracts of term insurance of uniform amount of fifteen (15) years or less expiring before age sixty-six (66).

Computation of values.

(2) In the case of certificates other than those for which reserves are computed on the commissioners 1941 standard ordinary mortality table or the 1941 standard industrial table, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, of (a) over (b) as follows:

(a) The reserve under the certificate determined on the basis specified in the certificate; and

(b) The sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrendered charge equal to two and one-half percent (2½%) of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

(3) However, in the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American men ultimate table of mortality, the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than one hundred thirty percent (130%) of those shown by the mortality table specified in the certificate for the computation of the reserve.

(4) In the case of certificates for which reserves are computed on the commissioners 1941 standard ordinary mortality table or the 1941 standard industrial table, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this state applicable to life insurers issuing policies containing like insurance benefits based upon such tables.

Beneficiaries—right to change

Society may limit scope.

Section 639. **Beneficiaries.** (1) The member shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, laws or rules of the society. Every society by its constitution, laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract.

Funeral benefits limited to $500.

(2) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, but the portion so paid shall not exceed the sum of five hundred dollars ($500).

Payment of death benefits.

If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits are payable, the amount of such benefits, except to the extent that funeral benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased member.

Benefits exempt from attachment.

Section 640. **Benefits not attachable.** No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

No personal liability for payment of benefits.

Section 641. **No personal liability.** The officers and members of the supreme, grand or any subordinate body of a society shall not be personally liable for payment of any benefits provided by a society.

Contract defined.

Section 642. **The contract.** (1) Every society authorized to do business in this state shall issue to each benefit member a certificate specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

Statements of members.

(2) All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this provision shall be void.

Subsequent amendments binding on members.

Exception—no diminution of benefits.

(3) Any changes, additions or amendments to the charter or articles of incorporation, constitution or laws duly made or enacted subsequent to the issuance of the certificate, shall bind the member and the beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership, except that no change, addition, or amendment shall destroy or diminish

benefits which the society contracted to give the member as of the date of issuance.

Certified copies as evidence.

(4) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

Form of life benefit certificate filed with commissioner.

Section 643. **Standard provision.** (1) After one year from the effective date of this chapter, no life benefit certificate shall be delivered or issued for delivery in this state unless a copy of the form has been filed with the commissioner.

Standard provisions required.

(2) The certificate shall contain in substance the following standard provisions or, in lieu thereof, provisions which are more favorable to the member:

Title.

(a) Title on the face and filing page of the certificate clearly and correctly describing its form;

Rates.

(b) A provision stating the amount of rates, premiums or other required contributions, by whatever name known, which are payable by the insured under the certificate;

Grace period.

(c) A provision that the member is entitled to a grace period of not less than a full month (or thirty (30) days at the option of the society) in which the payment of any premium after the first, may be made. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of such overdue payment or payments may be deducted in any settlement under the certificate;

Reinstatement.

(d) A provision that the member shall be entitled to have the certificate reinstated at any time within three (3) years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding six percent (6%) per annum compounded annually;

Paid-up nonforfeiture benefit.

(e) Except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of fifteen (15) years or less expiring before age sixty-six (66), a provision that, in the event of default in payment of any premium after three (3) full years' premiums have been paid or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this chapter. The certificate may provide, if the society's laws so specify or if the member shall so elect prior to the expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate;

Election of paid-up nonforfeiture benefit.

(f) A provision that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than sixty (60) days after the due date of the premium in default;

Mortality table.

(g) A statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate, and a brief general statement of the method used in calculating such benefits;

Table of values.

(h) A table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first twenty (20) certificate years or during the term of the certificate whichever is shorter;

Incontestability.

(i) A provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of two (2) years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization and provisions which grant additional insurance specifically against death by accident or accidental means, may also be excepted. The certificate shall be incontestable on the grounds of suicide after it has been in force during the lifetime of the member for a period of two (2) years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society shall have the right to contest a reinstated certificate within a period of two (2) years from date of reinstatement with the same exceptions as herein provided;

Readjustment—misstatement of age.

(j) A provision that in case the age of the member or of any other person is considered in determining the premium and it is found at any time before final settlement under the certificate that the age has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age; but if the correct age was not an insurable age under the society's charter or laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age according to the society's promulgated rates and any extension thereof based on actuarial principles;

Applicable substance of charter, constitution, laws, rules.

(k) A provision or provisions which recite fully, or which set forth the substance of, all sections of the charter, constitution, laws, rules or regulations of the society, in force at the time of issuance of the certificate, the violation of which will result in the termination of, or in the reduction of, the benefit or benefits payable under the certificate; and

Expulsion or suspension of member.

(l) If the constitution or laws of the society provide for expulsion or suspension of a member, any member so expelled or suspended, except for non-payment of a premium or within the contestable period for material misrepresentations in such member's application for membership shall have the privilege of maintaining his insurance in force by continuing payment of the required premium.

When provisions may be omitted.

(3) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate.

Prohibited provisions—life benefit certificate.

Section 644. **Prohibited provisions.** After one year from the effective date of this chapter, no life benefit certificate shall be delivered or issued for delivery in this state containing in substance any of the following provisions:

(1) Any provision limiting the time within which any action at law or in equity may be commenced to less than two (2) years after the cause of action accrues;

(2) Any provision by which the certificate purports to be issued or to take effect more than six (6) months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made; or

(3) Any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan while the total indebtedness, including interest, is less than the loan value of the certificate.

"Premiums" defined.

Section 645. **"Premiums" defined.** As used in this chapter "premiums" means premiums, rates, or other required contributions by whatever name known.

Forms for accident and health insurance must be filed with commissioner.

Section 646. **Accident and health insurance and total and permanent disability insurance certificates — Filing and approval.** (1) No domestic, foreign or alien society authorized to do business in this state shall issue or deliver in this state any certificate or other evidence of any contract of accident insurance or health insurance or of any total and permanent disability insurance contract unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the commissioner.

Power of commissioner to alter forms.

(2) The commissioner shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to the provisions of chapter 15 of this code (disability insurance policies). Where the commissioner deems inapplicable, either in part or in their entirety, the provisions of chapter 15, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member.

Time of approval.

(3) Any filing made hereunder shall be deemed approved unless disapproved within sixty (60) days from the date of such filing.

Power of domestic society to reinsure.

Section 647. **Reinsurance.** A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer (other than another fraternal benefit society) having the power to make such reinsurance and authorized to do business in this state, or if not so authorized, one which is approved by the commissioner; but no such society may reinsure substantially all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after the effective date of this chapter, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

Assets held for use and benefit of society.

Section 648. **Funds.** (1) All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in the contract.

Special funds.

(2) A society may create, maintain, invest, disburse

and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

Purpose of payment.

(3) Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for certificates issued after one year from the effective date of this chapter, shall, in every provision of the laws of the society for payments by members of such society, in whatever form made, distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions thereto shall be used for expenses.

Expenses limited.

Lawful investments.

Section 649. **Investments.** A society shall invest its funds only in such investments as are authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds.

Section 650. **Annual statement.** (1) Reports shall be filed and synopsis of annual statements shall be published in accordance with the provisions of this section.

Filing of annual statement required.

(2) Every society transacting business in this state shall annually, on or before the first day of March, unless for cause shown such time has been extended by the commissioner, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee of twenty-five dollars ($25) for filing same. The statement shall be in general form and context as approved by the national association of insurance commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

Printed synopsis to members.

(3) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than June

1 of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

Filing of annual valuation of certificates required.

Section 651. **Annual valuation of certificates.** (1) As a part of the annual statement required under section 650, each society shall, on or before the first day of March, file with the commissioner a valuation of its certificates in force on December 31 last preceding, provided, the commissioner may, in his discretion for cause shown, extend the time for filing such valuation for not more than two (2) calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present mid-year value of the promised benefits provided in the certificates of such society in force and the present mid-year value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present mid-year value of future net premiums exceeds the present mid-year value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one year after the effective date of this chapter shall be determined in accordance with the provisions of law applicable prior to the effective date of this chapter and as to certificates issued on or after one year from the effective date of this chapter shall not be less than the reserves determined according to the commissioners' reserve valuation method as hereinafter defined. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in such premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the mid-year or tabular values are not appropriate.

Reserve liabilities.

Net tabular value.

Additional reserve.

Computation of reserves for life insurance and endowment benefits.

(2) Reserves according to the commissioners' reserve valuation method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such certificates, over the then

present value of any future modified net premiums therefor. The modified net premiums for any such certificate shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the certificate and the excess of (a) over (b), as follows:

Modified net premiums defined.

Computation.

(a) A net level premium equal to the present value, at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such certificate on which a premium falls due; provided however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such certificate; and

(b) A net one-year term premium for such benefits provided for in the first certificate year.

Computation of other reserves.

(3) Reserves according to the commissioners' reserve valuation method for (a) life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums, (b) annuity and pure endowment benefits, (c) disability and accidental death benefits in all certificates and contracts, and (d) all other benefits except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of subsection (2), above.

Value of deferred payments deemed liability.

(4) The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in subsections (6) and (7) below.

Valuation certified by actuary.

(5) Such valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(6) The minimum standards of valuation for certificates issued prior to one year from the effective date of

this chapter shall be those provided by the law applicable immediately prior to the effective date of this chapter but not lower than the standards used in the calculating of rates for such certificates.

Minimum standards of valuation—existing certificates.

(7) The minimum standard of valuation for certificates issued after one year from the effective date of this chapter shall be three and one-half percent (3½%) interest and the following tables:

Minimum standards of valuation—certificates issued after one year from effective date.

(a) For certificates of life insurance—American men ultimate table of mortality, with Bowerman's or Davis' extension thereof or with the consent of the commissioner, the commissioner's 1941 standard ordinary mortality table or the commissioner's 1941 standard industrial table of mortality;

(b) For annuity certificates, including life annuities provided or available under optional modes of settlement in such certificates—the 1937 standard annuity table;

(c) For disability benefits issued in connection with life benefit certificates—Hunter's disability table, which, for active lives, shall be combined with a mortality table permitted for calculating the reserves on life insurance certificates, except that the table known as class III disability table (1926) modified to conform to the contractual waiting period, shall be used in computing reserves for disability benefits under a contract which presumes that total disability shall be considered to be permanent after a specified period;

(d) For accidental death benefits issued in connection with life benefit certificates—the inter-company double indemnity mortality table combined with a mortality table permitted for calculating the reserves for life insurance certificates; and

(e) For non-cancellable accident and health benefits —the class III disability table (1926) with conference modifications or, with the consent of the commissioner, tables based upon the society's own experience.

(8) The commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum

Other standards—commissioner's discretion.

valuation standard herein prescribed. The commissioner may, in his discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this state. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three consecutive years, the commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

Commissioner may require additional reserves.

Excess reserves permitted.

(9) Any society, with the consent of the insurance supervisory official of the state of domicile of the society and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in excess of the reserves required hereunder, but the contractural rights of any insured member shall not be affected thereby.

Penalty on failure to file annual statement.

Section 652. **Annual statement — Penalty for failure to file or to comply.** A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit one hundred dollars ($100) for each day during which such neglect continues, and, upon notice by the commissioner to that effect, its authority to do business in this state shall cease while such default continues.

Powers of commissioner to examine domestic societies.

Section 653. **Examination of domestic societies.** (1) The commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic society and he shall make such examination at least once in every three (3) years. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society.

Witnesses under oath.

(2) In making any such examination the commissioner may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and condition of the society.

(3) A summary of the report of the commissioner and

such recommendations or statements of the commissioner as may accompany such report, shall be read at the first meeting of the board of directors or corresponding body of the society following the receipt thereof, and if directed so to do by the commissioner, shall also be read at the first meeting of the supreme legislative or governing body of the society following the receipt thereof. A copy of the report, recommendations and statements of the commissioner shall be furnished by the society to each member of such board of directors or other governing body.

Reading of commissioner's report at meetings.

(4) The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.

Expenses of examination.

Powers of commissioner to examine foreign and alien societies.

Section 654. **Examination of foreign and alien societies.** The commissioner, or any person whom he may appoint, may examine any foreign or alien society transacting or applying for admission to transact business in this state. He may employ assistants and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. He may in his discretion accept, in lieu of such examination, the examination of the insurance department of the state, territory, district, province or country where such society is organized. The compensation and actual expenses of the examiners making any examination or general or special valuation shall be paid by the society examined or by the society whose certificate obligations have been valued, upon statements furnished by the commissioner.

Compensation and expenses.

Commissioner may not publish adverse information prior to service on society.

Section 655. **No adverse publications.** Pending, during or after an examination or investigation of a society, either domestic, foreign or alien, the commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any society, until a copy thereof shall have been served upon the society at its principal office and the society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding and to make such showing in connection therewith as it may desire.

Societies exempt from taxation.

Section 656. **Taxation.** Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax other than taxes on real estate and office equipment.

Agents must be licensed.

Section 657. **Licensing of agents.** (1) Agents of societies shall be licensed in accordance with the provisions of sections 657 through 661 of this chapter.

"Insurance agent" defined.

(2) Insurance agent defined: The term "insurance agent" as used in this chapter means any authorized or acknowledged agent of a society who acts as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract; except that the term "insurance agent" shall not include:

(a) Any regular salaried officer or employee of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(b) Any agent or representative of a society who devotes or intends to devote, less than fifty percent (50%) of his time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of fifty thousand dollars ($50,000), or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than twenty-five (25) individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, fifty percent (50%) of his time to the solicitation or procurement of insurance contracts for such society.

License required.

Section 658. **Agent license required.** (1) Any person who in this state acts as insurance agent for a society without having authority so to do by virtue of a license issued and in force pursuant to the provisions of this chapter shall, except as provided in section 657 (2), be guilty of a misdemeanor.

Misdemeanor.

Compensation to unlicensed persons prohibited.

(2) No society doing business in this state shall pay any commission or other compensation to any person for any services in obtaining in this state any new contract of life, accident or health insurance, or any new annuity contract, except to a licensed insurance agent of such society and except an agent exempted under section 657 (2).

License fee.

Section 659. **Qualifications, application for agents license.** (1) The commissioner may issue an agent's license to any person who has paid an annual license fee of five dollars ($5) and who has complied with the requirements of this section, authorizing such licensee to act as an insurance agent on behalf of any society named in such license which is authorized to do business in this state.

Required documents.

(2) Before any insurance agent's license shall be issued there shall be on file in the office of the commissioner the following documents:

Application.

(a) A written application by the prospective licensee in such form or forms and supplements thereto, and containing such information, as the commissioner may prescribe; and

Certificate of appointment.

(b) A certificate by the society which is to be named in such license, stating that such society has satisfied itself that the named applicant is trustworthy and competent to act as such insurance agent and that the society will appoint such applicant to act as its agent if the license applied for is issued by the commissioner. Such certificates shall be executed and acknowledged by an officer or managing agent of such society.

No examination required.

(3) No written or other examination shall be required of any individual seeking to be named as a licensee to represent a fraternal benefit society as its agent.

Commissioner may refuse license for cause.

(4) The commissioner may refuse to issue or renew any insurance agent's license if in his judgment the pro-

posed licensee is not trustworthy and competent to act as such agent, or has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance or renewal, as the case may be, of such license.

Section 660. **Agents' licenses — Expiration, renewal.** (1) Every agent's license, and every renewal thereof, shall expire on December 31 of the even-numbered calendar year following the calendar year in which such license or renewal license was issued.

Expiration.

Renewal.

(2) If the application for a renewal license has been filed with the commissioner on or before December 31 of the year in which the existing license is to expire, such applicant named in such existing license may continue to act as insurance agent under such existing license, unless same shall be revoked or suspended, until the issuance by the commissioner of the renewal license or until the expiration of five (5) days after he has refused to renew such license and has served written notice of such refusal on the applicant. If the applicant shall, within thirty (30) days after such notice is given, notify the commissioner in writing of his request for a hearing on such refusal, the commissioner shall, within a reasonable time after receipt of such notice, grant such hearing, and he may, in his discretion, reinstate such license.

Notice, hearing on refusal.

Application for renewal by society.

(3) Any such renewal license of an insurance agent may be issued upon the application of the society named in the existing license. Such application shall be in the form or forms prescribed by the commissioner and shall contain such information as he may require. The application shall contain a certificate executed by the president, or by a vice president, a secretary, an assistant secretary, or corresponding officer by whatever name known, or by an employee expressly designated and authorized to execute such certificate of a domestic or foreign society or by the United States manager of an alien society, stating that the addresses therein given of the agents of such society for whom renewal licenses are requested therein have been verified in each instance immediately preceding the preparation of the application. Notwithstanding the filing of such application, the com-

Certificate of address.

missioner may, after reasonable notice to any such society, require that any or all agents of such society to be named as licensees in renewal licenses shall execute and file separate applications for the renewal of such licenses, as hereinbefore specified, and he may also require that each such application shall be accompanied by the certificate specified in section 659 (2) (b).

Commissioner may require individual application.

Section 661. **Notice of termination of agent appointment.** Every society shall, upon the termination of the appointment of any insurance agent licensed to represent it in this state, forthwith file with the commissioner a statement, in such form as he may prescribe, of the facts relative to such termination and the cause thereof. Every statement made pursuant to this section shall be deemed a privileged communication.

Notice of termination of agent's appointment.

Section 662. **Suspension, revocation of agents license.** (1) The commissioner may revoke, or may suspend for such period as he may determine, any insurance agent's license if, after notice and hearing as specified in section 660 (2), he determines that the licensee has:

Suspension, revocation for cause after notice and hearing.

(a) Violated any provision of, or any obligation imposed by, this chapter, or has violated any law in the course of his dealings as agent;

(b) Made a material misstatement in the application for such license;

(c) Been guilty of fraudulent or dishonest practices;

(d) Demonstrated his incompetency or untrustworthiness to act as an insurance agent; or

(e) Been guilty of rebating as defined by the laws of this state applicable to life insurers.

(2) The revocation or suspension of any agent's license shall terminate forthwith the license of such agent. No individual whose license has been revoked shall be entitled to obtain any insurance agent's license under the provisions of this chapter for a period of one year after such revocation or, if such revocation be judicially reviewed, for one year after the final determination thereof affirming the action of the commissioner in revoking such license.

Effect of revocation, suspension.

Misrepresentations prohibited.

Section 663. **Misrepresentation.** No person shall cause or permit to be made, issued or circulated in any form:

(1) Any misrepresentation or false or misleading statement concerning the terms, benefits or advantages of any fraternal insurance contract now issued or to be issued in this state, or the financial condition of any society;

(2) Any false or misleading estimate or statement concerning the dividends or shares of surplus paid or to be paid by any society on any insurance contract; or

(3) Any incomplete comparison of an insurance contract of one society with an insurance contract of another society or insurer for the purpose of inducing the lapse, forfeiture or surrender of any insurance contract. A comparison of insurance contracts is incomplete if it does not compare in detail:

(a) The gross rates, and the gross rates less any dividend or other reduction allowed at the date of the comparison; and

(b) Any increase in cash values, and all the benefits provided by each contract for the possible duration thereof as determined by the life expectancy of the insured; or if it omits from consideration:

(c) Any benefit or value provided in the contract;

(d) Any differences as to amount or period of rates; or

(e) Any differences in limitations or conditions or provisions which directly or indirectly affect the benefits.

In any determination of the incompleteness or misleading character of any comparison or statement, it shall be presumed that the insured had no knowledge of any of the contents of the contract involved.

Penalties.

(4) Any person who violates any provision of this section or knowingly receives any compensation or commission by or in consequence of such violation, shall upon conviction be punished by a fine not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment in the county jail not less

than thirty (30) days nor more than ninety (90) days, or both fine and imprisonment and shall in addition, be liable for a civil penalty in the amount of three (3) times the sum received by such violator as compensation or commission, which penalty may be sued for and recovered by any person or society aggrieved for his or its own use and benefit in accordance with the provisions of civil practice.

Unfair discrimination prohibited.

Section 664. **Discrimination and rebates.** (1) No society doing business in this state shall make or permit any unfair discrimination between insured members of the same class and equal expectation of life in the premiums charged for certificates of insurance, in the dividends or other benefits payable thereon or in any other of the terms and conditions of the contracts it makes.

Rebates prohibited.

(2) No society, by itself, or any other party, and no agent or solicitor, personally, or by any other party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, any valuable consideration or inducement to, or for insurance, on any risk authorized to be taken by such society, which is not specified in the certificate. No member shall receive or accept, directly or indirectly, any rebate of premium, or part thereof, or agent's or solicitor's commission thereon, payable on any certificate or receive or accept any favor or advantage or share in the dividends or other benefits to accrue on, or any valuable consideration or inducement not specified in the contract of insurance.

Service of process—commissioner as attorney.

Section 665. **Service of process.** (1) Every society authorized to do business in this state shall appoint in writing the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by the commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

Procedure for service of process.

(2) Service shall only be made upon the commissioner, or if absent, upon the person in charge of his office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, he shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than thirty (30) days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein provided. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner a fee of two dollars ($2).

Domestic societies may consolidate or merge.

Section 666. **Consolidations and mergers.** (1) A domestic society may consolidate or merge with any other society by complying with the provisions of this section. It shall file with the commissioner:

Procedure.

Copy of contract.

(a) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

Financial statement.

(b) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the commissioner but not earlier than December 31, next preceding the date of the contract;

Certificate of approval by governing body.

(c) A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme legislative or governing body of each society; and

Evidence of advice to members.

(d) Evidence that at least sixty (60) days prior to the action of the supreme legislative or governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official organ of each society.

Affidavit of mailing.

(2) The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that

such notice or document has been furnished the addressees.

Approval of merger or consolidation by commissioner.

(3) If the commissioner finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state and a certificate of such approval filed with the commissioner or, if the laws of such state contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the insurance supervisory official of such state and a certificate of such approval filed with the commissioner.

Effect of merger or consolidation.

Section 667. **Consolidations and mergers — Effect.** Upon the consolidation or merger becoming effective as provided in section 666, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument; except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

Domestic society may convert to mutual life insurer.

Section 668. **Conversion into mutual life insurer.** Any domestic fraternal benefit society may be converted and licensed as a mutual life insurer by compliance with the applicable requirements of chapter 22 of this code, if such plan of conversion has been approved by the commissioner. Such plan shall be prepared in writing setting

Approval by governing body.

forth in full the terms and conditions thereof. The board of directors shall submit the plan to the supreme legislative or governing body of such society at any regular or special meeting thereof, by giving a full, true and complete copy of the plan with the notice of such meeting. The notice shall be given as provided in the laws of the society for the convocation of a regular or special meeting of such body, as the case may be. The affirmative vote of two-thirds of all members of such body shall be necessary for the approval of the agreement. No such conversion shall take effect unless and until approved by the commissioner, who may give such approval if he finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

Approval by commissioner.

Legal remedies available to commissioner.

Section 669. **Injunction — Liquidation — Receivership of domestic society.** (1) When the commissioner upon investigation finds that a domestic society:

(a) Has exceeded its powers;

(b) Has failed to comply with any provision of this chapter;

(c) Is not fulfilling its contracts in good faith;

(d) Has a membership of less than four hundred (400) after an existence of one year or more; or

(e) Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business; he shall notify the society of his findings, state in writing the reasons for his dissatisfaction, and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in quo warranto should not be commenced against the society.

Action by attorney general.

(2) If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the commissioner may present the facts relating thereto to the attorney general who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto. The

court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order.

Effect of injunction.

(3) No society so enjoined shall have the authority to do business until:

(a) The commissioner finds that the violation complained of has been corrected;

(b) The costs of such action have been paid by the society if the court finds that the society was in default as charged;

(c) The court has dissolved its injunction; and

(d) The commissioner has reinstated the society's license.

Injunction on order to liquidate.

(4) If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money and other assets of the society and, under the direction of the court, proceed forthwith to close the affairs of the society and to distribute its funds to those entitled thereto.

Commissioner appointed receiver.

(5) No action under this section shall be recognized in any court of this state unless brought by the attorney general upon request of the commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the commissioner as such receiver.

Society voluntarily discontinuing business.

(6) The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner, hearing by the court, injunction and receivership shall be applicable to a society which voluntarily determines to discontinue business.

No injunction to issue except on application of attorney general.

Section 670. **Injunction.** No application or petition for injunction against any domestic, foreign or alien society, or branch thereof, shall be recognized in any court of this state unless made by the attorney general upon request of the commissioner.

Judicial review.

Section 671. **Review.** All decisions and findings of the commissioner made under the provisions of this chapter shall be subject to review by the court in accordance with the provisions of section 44 of this code.

Schedule of other applicable provisions.

Section 672. **Other provisions applicable.** In addition to the provisions contained in this chapter, other chapters and provisions of this code shall apply to fraternal benefit societies, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications thereof, as follows:

(1) Chapter 1 (scope of code).

(2) Chapter 2 (the commissioner of insurance), with the exception of section 45 (fees and licenses).

(3) The following sections of chapter 3 (authorization of insurers and general requirements):

(a) Section 50 (name of insurer).

(b) Section 55 (management and affiliations).

(4) Section 176 (representing or aiding unauthorized insurer prohibited).

(5) Chapter 10 (trade practices and frauds).

(6) Section 288 (minor may give acquittance).

(7) Section 440 (prohibited pecuniary interest of officials).

(8) Section 467 (extinguishment of unused corporate charters).

(9) Chapter 26 (rehabilitations and liquidations).

Section 673. That section 25-101; sections 40-101 through 40-105; sections 40-201 through 40-218; sections 40-301 through 40-323; sections 40-401 through 40-415; sections 40-501 through 40-517; sections 40-601 through 40-609; sections 40-701 through 40-706; section 40-801; sections 40-901 through 40-905; sections 40-1001 through 40-1005; sections 40-1101 through 40-1118; section 40-1204; section 40-1301; section 40-1302 as amended by section 1, chapter 74, Laws of Montana, 1957; sections 40-1303 through 40-1333; sections 40-1401 through 40-1441; sections 40-1501 through 40-1517; sections 40-1601 through 40-1625; sections 40-1701, 40-1702; sections 40-

1704 through 40-1722; section 40-1726; sections 40-1801 through 40-1820; sections 40-1901 through 40-1946; sections 40-2001 through 40-2012; sections 40-2101 through 40-2138; sections 40-2201 through 40-2212; sections 40-2301 through 40-2310; sections 40-2401 through 40-2412; section 40-2413 as amended by section 1, chapter 108, Laws of Montana, 1955; sections 40-2414 through 40-2416; and sections 40-2501 through 40-2513, Revised Codes of Montana, 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Approved March 18, 1959.

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APPROPRIATIONS, MEMORIALS AND RESOLUTIONS

ENACTED BY THE

Thirty-Sixth Legislative Assembly

STATE OF MONTANA

1959

APPROPRIATIONS, MEMORIALS AND RESOLUTIONS

HOUSE BILL NO. 2

An Act to Appropriate Money for the Legislative Assembly and for the Payment of Per Diem to the Officers and Attaches and for Incidental Expenses of the Thirty-sixth Legislative Assembly of the State of Montana:

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated, out of any money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, but for no other;

For the payment of mileage and per diem to the members of the thirty-sixth legislative assembly of the State of Montana:
One hundred ninety thousand dollars................................$190,000.00

For the payment of per diem to the officers and attaches of the thirty-sixth legislative assembly of the State of Montana:
One hundred sixty thousand dollars $160,000.00

For the payment of incidental expenses of the thirty-sixth legislative assembly of the State of Montana:
Ninety-eight thousand dollars...$ 98,000.00

Section 2. The amounts appropriated herein are to be used for the purpose designated. However, if there is a surplus in any one item it may be transferred to either of the other two items appropriated herein for the legislative assembly; provided the aggregate amount of all three appropriations shall be neither increased nor decreased.

Section 3. Appropriations herein above provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved January 9, 1959.

HOUSE BILL NO. 55

An Act Appropriating the Sum of Eighty-one Thousand, One Hundred Sixty-six Dollars and Sixty Cents ($81,166.60) to Pay the Claim of Glenn Chamberlain, Minor Male Child, Which Claim was Heard and Unanimously Approved and Allowed in Full by the State Board of Examiners on the 18th Day of December, 1958, for Injuries Received, to wit: Total and Permanent Blindness in Both Eyes, and Complete Loss of the Index Finger of the Right Hand, on the 8th Day of May, 1956, in the Impact Area of the Montana National Guard Firing Range Near Harlowton, Montana, by Reason of the Negligence of the Montana National Guard in Leaving Unexploded 37 MM Shells in the Impact Area, Not Posting the Same, Knowing Such Shells Were Attractive to Children; by Reason of which Said Glenn Chamberlain, a Minor of Twelve (12) Years of Age on the 8th Day of May, 1956, Picked up and Played with One of Said Unexploded 37 MM Shells, Which Exploded in His Hand Resulting in Said Injuries; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. WHEREAS, the speaker of this house has received from the state board of examiners of the State of Montana under date of January 13, 1959, the following letter in re the claim of Erma Chamberlain, as guardian of the estate and person of Glenn Chamberlain, a minor, to wit:

"Gentlemen: In accordance with the mandate required of us in Section 82-1115, Revised Codes of Montana, 1947 the undersigned board of examiners after a full hearing on the claim at their meeting held on the 18th day of December, 1958, did make the following findings of fact and conclusions, to-wit:

"1. WHEREAS, it appears to the state board of examiners that Erma Chamberlain is the natural mother and the duly appointed, qualified, and acting legal guardian of a minor child, Glenn Chamberlain;

"2. That the said Glenn Chamberlain is a minor male child born on February 29, 1944;

"3. That prior to the 8th day of May, 1956, the said Glenn Chamberlain was a healthy, able-bodied child with normal eyesight;

"4. That during the three years prior to May 8, 1956, the

Howitzer Company, Second Battalion, 163rd Armored Cavalry Regiment of the Montana National Guard had from time to time fired 37 mm practice shells in an area southwest of the city of Harlowton, Montana, known as the Klock Ranch;

"5. That such firing was done pursuant to and as a part of the duties of the said company as a part of the Montana National Guard;

"6. That the said 37 mm shells are explosive and designed to explode upon impact;

"7. That some of the 37 mm shells so fired did not explode upon impact but remained in the target area;

"8. That it was the duty of the said Montana National Guard to remove such dangerous and unexploded shells from the target area above prescribed;

"9. That such shells were not removed and remained in the area creating a hazardous and dangerous condition and one particularly and peculiarly attractive to small children;

"10. That on May 8, 1956, the said Glenn Chamberlain, then being a child aged twelve (12) years, while walking in the target area, which was not posted and contained no warnings of the dangerous condition to be found therein, found several of the unexploded 37 mm shells;

"11. That while playing with one of the said 37 mm shells it exploded causing the loss of the index finger of his right hand and total and permanent blindness in both eyes;

"12. THEREFORE, BE IT RESOLVED; and it is therefore resolved by the state board of examiners that the board report to the state legislature that the claim of Glenn Chamberlain for eighty-one thousand, one hundred sixty-six dollars and sixty cents ($81,166.60) is a just and proper claim against the State of Montana;

"13. That there was a duty upon the part of the State of Montana and the Montana National Guard to protect the public from the dangerous condition caused by its practice firing;

"14. That the injuries to the said Glenn Chamberlain were caused by the failure of the State of Montana, the Montana National Guard and their employees to carry out this duty;

"15. That as a result of the negligent failure to perform this duty Glenn Chamberlain, a minor child, sustained permanent injuries;

"16. That the sum of eighty-one thousand, one hundred sixty-six dollars and sixty cents ($81,166.60) is a reasonable and proper amount recompense for the injuries so sustained.

"That the board of examiners hereby recommends that the claim of Erma Chamberlain, as guardian of the estate and person of Glenn Chamberlain, a minor child, be paid in full and that moneys be appropriated for this purpose.

/s/ J. Hugo Aronson
Governor

Frank Murray
Secretary of State

Forrest H. Anderson
Attorney General"

Section 2. That this legislative assembly hereby finds the above facts and conclusions, and all of them, to be true and correct.

Section 3. That the sum of eighty-one thousand one hundred sixty-six dollars and sixty cents ($81,166.60) is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the claim of Erma Chamberlain, as guardian of the estate and person of Glenn Chamberlain, a minor child; which claim was approved and allowed by the state board of examiners of the State of Montana on the 18th day of December, 1958; and hereby directs the same to be paid in the above amount, forthwith; provided that, as a part of the consideration of said settlement, the said Erma Chamberlain, as guardian of the estate and person of Glenn Chamberlain, a minor child, shall execute to the State of Montana a release in full of all demands and claims of the said Glenn Chamberlain and his guardian against the State of Montana.

Section 4. This appropriation shall be valid and binding notwithstanding the limitations and provisions of the budget act.

Section 5. That this act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1959.

THIRTY-SIXTH LEGISLATIVE ASSEMBLY

HOUSE BILL NO. 119

An Act to Appropriate Money from This State's Account in the Unemployment Trust Fund on Deposit With the Secretary of the Treasury of the United States of America, Limited to the Amounts Paid Into Said Fund Pursuant to Section 903 of the Social Security Act, as Amended, for the Construction of an Unemployment Compensation Commission Building Upon the Present Capitol Building Grounds, and for the Liquidation of Bonds Hereafter Sold to Obtain Funds for Such Construction, and, Further, Limiting the Period of Time Prior to the Obligation of Such Funds to a Period Not to Exceed Two Years from the Date of the Passage and Approval of This Act; Providing a Name for Said Building; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated out of this state's account in the unemployment trust fund on deposit with the secretary of the treasury of the United States of America, the sum of $600,000.00, or so much thereof as may be necessary, to the unemployment compensation commission of Montana for the purpose of constructing an unemployment compensation commission building upon the present capitol building grounds, and for the purpose of landscaping and paving around such building, and, further, for the purpose of liquidating bonds by payment of both principal and interest hereafter sold by the state board of examiners to obtain funds for such construction.

Section 2. That the amount hereby appropriated shall be further limited to the amount of money credited to this state's account in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the social security act, as amended.

Section 3. No part of the amount hereby appropriated shall be obligated after the close of the two-year period which begins on the date of the passage and approval of this act. Any funds hereby appropriated which have not been obligated within such two-year period, or although obligated will not be expended, shall be returned to this state's account in the unemployment trust fund.

Section 4. The board of examiners of the State of Montana is hereby directed and empowered to designate and name the building herein referred to as the "unemployment compensation commission building" and to suitably inscribe thereon the name "unemployment compensation commission."

Section 5. The appropriation herein provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1959.

HOUSE BILL NO. 136

An Act to Appropriate One Hundred Thousand Dollars ($100,000.00) for the Operation and Expenses of the Legislative Council for the Period Beginning July 1, 1959, and Ending June 30, 1961, and to Provide for an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of one hundred thousand dollars ($100,000.00) be, and the same is hereby appropriated out of the general fund, not otherwise appropriated, to the Legislative Council, to be expended for its continued operation and for payment of its expenses.

Section 2. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. The appropiration herein provided for shall be for the period beginning July 1, 1959, and ending June 30, 1961.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 26, 1959.

HOUSE BILL NO. 142

An Act to Provide for the Reappropriation of the Balance Remaining in Account Number 766, of the Legislative Council, for the Period Beginning February 21, 1959, and Ending June 30, 1959, and to Provide for an Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby reappropriated, and this does hereby appropriate, the balance remaining in Account Number 766, of the Legislative Council, for the period beginning February 21, 1959, and ending June 30, 1959.

Section 2. The appropriation hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1959.

HOUSE BILL NO. 169

An Act to Appropriate Money for the Purchase of Cumulative Pocket Supplements of 1959, for the Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum or sums or so much thereof as may be necessary be, and the same are hereby appropriated, for the purchase of Cumulative Pocket Supplements of 1959, for the Revised Codes of Montana, 1947, as follows:

FROM THE GENERAL FUND

Four hundred fifty (450) sets Cumulative Pocket Supplements for 1959, for the Revised Codes of Montana, 1947, at twenty dollars and fifty cents ($20.50) per set, nine thousand two hundred twenty-five dollars............................$9,225.00

Section 2. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved February 16, 1959.

HOUSE BILL NO. 268

An Act to Appropriate Money for the Purpose of Refunding Inheritance Taxes Erroneously Paid to the State of Montana on the Death of Thomas E. Luebben Late of Dillon, Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of one thousand four hundred sixteen dollars and fifty-three cents ($1,416.53) be, and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of refunding inheritance taxes to the estate of Thomas E. Luebben, which were erroneously paid to the state of Montana on the death of Thomas E. Luebben.

Section 2. The appropriation herein provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved February 25, 1959.

HOUSE BILL NO. 314

An Act to Appropriate Money for the Construction of Facilities Necessary for the Administration and Training of the Montana National Guard; Providing That the Appropriation Herein Shall Be Valid Notwithstanding the Provisions of the Budget Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of one hundred thousand dollars ($100,000) to the adjutant general for the following purposes: The sum of eighty-eight thousand dollars ($88,000) for the sole purpose of constructing, under the provisions of Sections 77-415 through 77-420, Revised Codes of Montana, 1947, as amended, facilities necessary for the administration and training of the Montana National Guard; and twelve thousand dollars ($12,000) for planning permanent construction of facilities at Fort Harrison, Montana.

Section 2. No part of the funds appropriated hereby shall be expended for the purchase or lease of any site for such facility.

Section 3. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 7, 1959.

HOUSE BILL NO. 521

An Act to Appropriate Money for the Purchase of Sets of the Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum or so much thereof as may be necessary be, and the same is hereby appropriated out of any money in the state treasury not otherwise provided for the purpose hereinafter expressed:

FROM THE GENERAL FUND

For the purchase of ten (10) sets of the Revised Codes of Montana, 1947, complete with replacement volume number nine, as published by the publishers and distributors thereof, at one hundred twenty dollars ($120.00) per set, twelve hundred dollars, $1200.00.

Section 2. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved February 25, 1959.

HOUSE BILL NO. 522

An Act to Appropriate Money for the Purpose of Paying Expenses as Designated Herein, for Montana State Prison, Bureau of Identification, and Bureau of Vocational Rehabilitation, for the Remainder of the Current Fiscal Year Ending June 30, 1959, It Being Determined the Appropriation Made by the Thirty-fifth Legislative Assembly, to be Insufficient; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purposes hereinafter expressed for the current biennium ending June 30, 1959:

STATE PRISON

FROM THE GENERAL FUND

Salaries and expenses, four hundred sixty-three thousand two hundred eighty-nine dollars and thirty cents	$463,289.30
Public employees' retirement system and social security, sixteen thousand nine hundred forty-five dollars..	$ 16,945.00

BUREAU OF IDENTIFICATION

FROM THE GENERAL FUND

Salaries and expenses, seven thousand three hundred seventy-five dollars	$ 7,375.00
Public employees' retirement system and social security, two hundred ninety-five dollars	$ 295.00

BUREAU OF VOCATIONAL REHABILITATION

FROM THE GENERAL FUND

Operation, seven thousand dollars	$ 7,000.00

Section 2. The appropriation herein provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1959.

HOUSE BILL NO. 523

An Act to Appropriate Money for the Payment of Certain Deficiency Claims Arising From Obligations Incurred by the State Board of Equalization; Public Employees Retirement System; Supreme Court; State Forester; From Obligations Arising From a Judgment for Robert L. Randall; Providing for Validity Notwithstanding the Provisions of the Budget Act; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated for the purpose of paying the following deficiency claims:

FROM THE HIGHWAY FUND

For obligations incurred by the state board of equalization, seven hundred twenty-three dollars and fifty cents ($723.50), more particularly itemized as follows:

For court costs:

Mabel M. Rice & Donald E. Ronish	$ 148.00
James E. Conn & Erwin L. Anzjon	$ 72.10
Clayton R. Herron	$ 503.40

FROM THE GENERAL FUND

For obligations incurred by the state board of equalization, eight thousand four hundred eighty dollars and sixty-three cents ($8,480.63), more particularly itemized as follows:

Inheritance tax refund, the estate of Esther Bunge, deceased	$ 198.00
Inheritance tax refund, the estate of Mildred Bertsche, deceased	$ 1,513.06
For refund of Corporation License Tax:	
Baker Grain Company, Bismarck, North Dakota	$ 131.05
Dan's Oil, Inc., Billings, Montana	$ 115.41
Elliots Inc., Billings, Montana	$ 370.70
Montana Building, Lewistown, Montana	$ 63.35
Chas. E. Shewe Company, Butte, Montana	$ 570.80
Y-V Fertilizer Corporation, Billings, Montana	$ 149.47
For refund of Cigarette Stamp Tax:	
H. L. Schutte Company, North Dakota	$ 1,080.00
R. J. Reynolds Tobacco Company, Winston-Salem, North Carolina	$ 2,831.51
Miles City Mercantile Company, Miles City, Montana	$ 144.00
L. S. Cohn Company, Butte, Montana	$ 48.00
Ryan Lewistown Company, Lewistown, Montana	$ 48.00
Sheehan Bros. & Flynn, Inc., Butte, Montana	$ 48.00
P. Lorillard Company, Inc., New York 17, New York	$ 1,169.28

To the public employees retirement system, one thousand eight hundred thirty-two dollars and seventy-two cents ($1,832.72), for obligations incurred as the state's contribution by the State of Montana by reason of certain state employees electing to pay their share of the public employees retirement system for back years during which they had not been under the system, as follows:

Frank Hollenback	$ 1,246.49
Edward C. Schroeter	$ 134.73

Violet M. Eastman	$ 31.50
Dean King	$ 420.00

For obligations incurred by the supreme court, sixteen thousand two hundred sixteen dollars ($16,216.00), more particularly itemized as follows:

State Publishing Company, Helena, Montana	$16,216.00

For obligations incurred by the state forester, fourteen thousand seven hundred ninety-three dollars ($14,793.00), more particularly itemized as follows:

Treasurer of the United States, Fiscal Agent Region No. 1, U.S.F.S., Missoula, Montana	$14,793.00

FROM ESCHEATED ESTATES, FUND NO. 127

To be paid to Robert L. Randall the sum of one hundred sixty-three dollars and sixty-six cents	$ 163.66

Section 2. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1959.

HOUSE BILL NO. 524

An Act to Appropriate Money to the Board of Examiners for the Payment of Certain Contract Obligations at the Montana State Prison, Said Lands Under Contract Known as Deer Lodge Valley Farms, Payment of Lease on Certain State and Forest Lands, Payment of Taxes on Lands Under Purchase Contract and to Pay Interest on Unpaid Balance; for Obligations to the International Roll Call Corporation; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of carrying out the provisions as set forth in this act.

FROM THE GENERAL FUND

For obligations incurred by the board of examiners for the payment of purchase contract on lands, lease on certain lands, payment of taxes, payment of interest, for the sum of one hundred eighty thousand four hundred seventy-four dollars and twenty-seven cents ($180,474.27), more particularly itemized as follows:

Two yearly payments of sixty-five thousand nine hundred ninety-two dollars and twenty cents ($65,992.20) for 1959 and 1960, one hundred thirty-one thousand nine hundred eighty-four dollars and forty cents	$131,984.40
Interest on unpaid balances for the years 1959 and 1960, twenty thousand seven hundred and eighty-seven dollars and fifty-five cents	$ 20,787.55
Taxes for years 1959 and 1960, nineteen thousand dollars	$ 19,000.00
Leases on land, payable to state land office for 1959 and 1960, six thousand two hundred two dollars and thirty-two cents	$ 6,202.32
Forestry fire protection for 1959 and 1960, five hundred dollars	$ 500.00
Contingencies for 1959 and 1960, two thousand dollars	$ 2,000.00

For obligations incurred by the State of Montana to complete the 1959 and 1960 payments on the international roll call corporation contract, covering purchase of roll call equipment in house of representatives, forty-four thousand two hundred seventy-one dollars and forty-eight cents ($44,271.48), more particularly itemized as follows:

1959 annual payment to the international roll call corporation	$ 22,135.74
1960 final payment to the international roll call corporation	$ 22,135.74

Section 2. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1959.

SUBSTITUTE HOUSE BILL NO. 525

An Act to Appropriate by Means of the Issuance and Sale by the State Board of Examiners of Bonds in Addition to Bonds Already Authorized to be Issued and Sold for the Purpose of Completing Construction, Building and Furnishing Quarters for the Governor; Designating the Monies from Which Said Bonds Should be Paid; Providing that the Such Monies Shall be Placed in the Governor's Quarters Construction Interest and Sinking Fund; Enumerating the Powers and Duties of the State Board of Examiners in Carrying Out the Provisions of This Act; Providing that the Appropriation Herein Provided for Shall be Valid Notwithstanding the Provisions of the Budget Act; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state board of examiners of the State of Montana is hereby authorized to issue and sell bonds as an addition to bonds already authorized to be issued and sold for the purpose of completion of construction, building and furnishing the quarters for the governor of the State of Montana.

Section 2. Upon the sale of bonds, the state board of examiners is empowered and directed to proceed toward the completion of construction, building and furnishing quarters for the governor of the State of Montana.

Section 3. The aggregate amount of bonds authorized by this act for the purposes herein expressed, shall not exceed the sum of one hundred twenty-four thousand five hundred dollars ($124, 500.00).

Section 4. Bonds issued and sold by the state board of examiners under authority of this act shall bear interest at a rate not exceeding four percent (4%) per annum, payable semiannually. They shall be either amortization or serial bonds, shall bear such date as the state board of examiners shall prescribe, and shall be payable over such period of years, not exceeding twenty (20), as said board may specify. All bonds shall be optional and redeemable at any time after the date of issue, at the option of the state board of examiners. Said bonds shall be in such denominations and sums and shall contain such recitals as the state board of examiners may determine, shall be signed by the governor, the attorney general, and the secretary of state as members of said board, and shall be paid at the office of the state treasurer of the State of Montana.

The coupons attached to said bonds may bear the facsimile signature of the members of said board.

Section 5. Said bonds shall be sold by the state board of examiners at such time and in such manner as the board shall deem best to carry out the provisions of this act; provided that none of such bonds shall be sold for less than par, plus accrued interest to the date of delivery of the bonds. Each of said bonds shall be registered before delivery with the state treasurer of the State of Montana, who shall keep accurate accounts of payments of interest and principal upon said bonds.

Section 6. The principal and interest of the bonds authorized by this act shall be payable out of the following fund and from it only: All the income received from the capitol building land grant, subject only to the prior dedication and appropriation of monies therefrom for the payment of principal and interest of bonds heretofore issued, shall be and the same is hereby perpetually dedicated and appropriated for the payment of the principal and interest of the bonds provided for by this act. Any and all balances or sums now in said capitol building land grant fund or that may accrue to and become a part of said fund prior to the time of the sale of the bonds provided for herein, in excess of the amount heretofore dedicated and appropriated, shall likewise be and the same are hereby pledged and appropriated for the payment of principal and interest of the bonds authorized by this act and to cover and pay the cost of constructing and furnishing said building to the extent said balances or accruals to said fund may be sufficient to pay the same; provided said bonds shall be issued and sold by said board of examiners as herein provided only for the total sum or amount necessary to be raised in excess of such total of all balances or sums now in or that may be accrued to said capitol building land grant in order to make available for such construction and furnishing said building a total of one hundred twenty-four thousand five hundred dollars ($124,500.00).

Section 7. To provide for the payment of the interest and principal of the bonds authorized by this act, all the sums of money hereinbefore dedicated and appropriated to the payment of the principal and interest of said bonds and for the completion of the construction and furnishing of said quarters, shall be paid into the governor's quarters construction interest and sinking fund as created by chapter 77 of the laws of the thirty-third legislative assembly, 1953.

Section 8. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 9. Every section of this act and every part of each section is hereby declared to be independent of each other, and the holding of any section or part hereof to be void or ineffective for any cause shall not be deemed to affect any other sections or part hereof.

Section 10. This act shall be in full force and effect from and after its passage and approval.

Approved March 13, 1959.

HOUSE BILL NO. 527

An Act to Appropriate Money for the Purpose of Paying Expenses as Designated Herein, for Supreme Court, State Controller, Secretary of State, Board of Pardons, Apprenticeship Council, Transportation of Prisoners, State Treasurer, Vocational School for Girls, State Examiner, Montana Milk Control Board, Railroad Commission, Montana State Hospital, State Orphans Home, District Judges, Capitol Custodian, County Attorneys, Attorney General, Law Library, Governor's Office, Western Montana College of Education, Montana State College, Agricultural Experiment Station, Experimental Substations of the Montana Agricultural Experiment Station, Agricultural Extension Service of Montana State College, and Montana State University, for the Remainder of the Current Fiscal Year Ending June 30, 1959, it Being Determined the Appropriation Made by the Thirty-fifth Legislative Assembly to be Insufficient; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purposes hereinafter expressed for the current biennium ending June 30, 1959:

SUPREME COURT

FROM THE GENERAL FUND

Operation, eight thousand seven hundred eighty-four dollars	$ 8,784.00

STATE CONTROLLER
COMMODITY DISTRIBUTION DIVISION

FROM THE GENERAL FUND

Salaries and expenses, five thousand dollars	$ 5,000.00

SECRETARY OF STATE

FROM THE GENERAL FUND

Salaries, one thousand six hundred forty-three dollars and eighty cents	$ 1,643.80
Capital, repairs and replacements, three hundred eighteen dollars and ninety-seven cents	$ 318.97
Operation, five thousand two hundred fifty-one dollars and eighty-one cents	$ 5,251.81
Salaries and expenses for elections, amendments, initiative and referendum measures, three thousand four hundred thirty-three dollars and eighty-two cents	$ 3,433.82
Public employees' retirement system and social security, seven hundred seventy-six dollars and sixty cents	$ 776.60

BOARD OF PARDONS

FROM THE GENERAL FUND

For office expenses, two thousand seven hundred twenty-five dollars	$ 2,725.00
Capital outlay, four hundred fifty dollars	$ 450.00

APPRENTICESHIP COUNCIL

FROM THE GENERAL FUND

Public employees' retirement system, sixty-eight dollars and forty-two cents	$ 68.42

TRANSPORTATION OF PRISONERS

FROM THE GENERAL FUND

For the purpose of paying the expenses of transporting prisoners, ten thousand five hundred dollars........................$ 10,500.00

STATE TREASURER

FROM THE GENERAL FUND

For the payment of one Underwood shuttle adding machine, seven hundred twenty-one dollars and fifty cents ....$ 721.50

VOCATIONAL SCHOOL FOR GIRLS

FROM THE GENERAL FUND

Public employee's retirement system, teachers' retirement system, and social security, one thousand five hundred eighty-five dollars ....$ 1,585.00

STATE EXAMINER

FROM THE GENERAL FUND

Examination of university system, twenty thousand dollars ....$ 20,000.00

MONTANA MILK CONTROL BOARD

FROM THE GENERAL FUND

Operation, five thousand seven hundred forty dollars....$ 5,740.00

RAILROAD COMMISSION

FROM THE GENERAL FUND

Operation, five thousand seven hundred ninety-six dollars and forty-five cents ....$ 5,796.45

Public employees' retirement system and social security, three hundred twelve dollars and forty-two cents ....$ 312.42

MONTANA STATE HOSPITAL

FROM THE GENERAL FUND

Hospital salaries and expenses, twenty-two thousand five hundred sixty-four dollars ....$ 22,564.00

Hospital public employees' retirement system and social security, seven thousand one hundred eighty dollars and forty-seven cents ....$	7,180.47
Mental hygiene public employees' retirement system and social security, four thousand one hundred seventy-one dollars and fifty-seven cents....$	4,171.57

STATE ORPHANS HOME

FROM THE GENERAL FUND

Other salaries and expenses, forty-eight thousand dollars ....$	48,000.00

DISTRICT JUDGES

FROM THE GENERAL FUND

Social security, seven hundred fifty dollars....$	750.00

CAPITOL CUSTODIAN

FROM THE GENERAL FUND

Salaries, twelve thousand dollars....$	12,000.00

COUNTY ATTORNEYS

FROM THE GENERAL FUND

Salaries, seventeen thousand one hundred dollars....$	17,100.00
Social security, six hundred seventy dollars....$	670.00

ATTORNEY GENERAL

FROM THE GENERAL FUND

Public employees' retirement system and social security, two hundred sixty dollars....$	260.00

LAW LIBRARY

FROM THE GENERAL FUND

Salaries and wages, six hundred dollars....$	600.00

GOVERNOR'S OFFICE

FROM THE GENERAL FUND

Requisitions, ten thousand dollars ....$	10,000.00

WESTERN MONTANA COLLEGE OF EDUCATION

FROM THE GENERAL FUND

For salaries and expenses, one hundred thirty-five thousand dollars	$135,000.00

MONTANA STATE COLLEGE

FROM THE UNIVERSITY MILLAGE FUND

For public employees' retirement system and social security, seven thousand dollars	$ 7,000.00

AGRICULTURAL EXPERIMENT STATION

FROM THE UNIVERSITY MILLAGE FUND

For public employees' retirement system, teachers' retirement system, and social security, six thousand two hundred dollars	$ 6,200.00

EXPERIMENTAL SUBSTATIONS OF THE MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE UNIVERSITY MILLAGE FUND

For public employees' retirement system and social security, four thousand dollars	$ 4,000.00

AGRICULTURAL EXTENSION SERVICE OF MONTANA STATE COLLEGE

FROM THE UNIVERSITY MILLAGE FUND

For public employees' retirement system and social security, three thousand dollars	$ 3,000.00

MONTANA STATE UNIVERSITY

FROM THE UNIVERSITY MILLAGE FUND

Social security, twenty thousand dollars	$ 20,000.00

Section 2. The appropriation herein provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1959.

THIRTY-SIXTH LEGISLATIVE ASSEMBLY

HOUSE BILL NO. 528

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes as Designated Herein, for Certain State Departments and Offices for the Period Beginning July 1, 1959, and Ending June 30, 1961.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term ''salaries'' means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees, or employees whose duties are of a continuous nature. No part of this appropriation shall be used to pay any salary in excess of that which may be specifically fixed by law. It does not mean wages or compensation paid in consideration of services rendered temporary employees and for persons appointed or hired for a period of less than one (1) month, the payment of which is hereby made a proper charge from funds appropriated for ''operation.''

(2) The term ''capital'' unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event shall the term ''capital'' mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term ''repairs'' means the amount to be paid for the repair of any capital asset, including buildings or lands.

(4) The term ''replacements'' means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original being worn out or broken.

(5) The term ''operation'' means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term ''salaries and expenses'' means any expenses, including salaries, capital, repairs and replacements and operation, as defined above.

(7) The term "expense'' means any expense defined above, with the exception of salaries.

(8) The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than twenty (20) days after the close of the fiscal year. Supplies purchased for a succeeding year are in violation of this act. In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balances at the end of the second year, except amounts encumbered by purchase order or obligated claims and not billed prior to the above date shall revert to the funds from which they were appropriated.

(9) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

(10) The term ''public employees' retirement system'' means the state contributions to the public employees' retirement system and said money is to be used for that purpose and no other.

(11) The term ''social security'' means the state contributions to the social security fund and said money is to be used for that purpose and no other.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed for the period beginning July 1, 1959, and ending June 30, 1960.

GOVERNOR'S OFFICE

FROM THE GENERAL FUND

Salaries, thirty-one thousand five hundred dollars	$ 31,500.00
Capital, repairs and replacements, eight hundred fifty dollars	$ 850.00
Operation, nine thousand one hundred fifty dollars	$ 9,150.00
Public employees' retirement system and social security, eight hundred dollars	$ 800.00
Council of state governments, six hundred dollars	$ 600.00

GOVERNOR'S MANSION

FROM THE GENERAL FUND

Salaries and expenses, six thousand five hundred dollars	$ 6,500.00
Capital, repairs and replacements, two thousand dollars	$ 2,000.00
Operation, two thousand four hundred fifteen dollars	$ 2,415.00

OFFICE OF DIRECTOR OF BUDGET

FROM THE GENERAL FUND

Salaries and expenses, twenty thousand dollars	$ 20,000.00
Travel, five thousand dollars	$ 5,000.00
Operations, three thousand dollars	$ 3,000.00
Public employees' retirement system and social security, one thousand dollars	$ 1,000.00
Capital, repairs and replacements, three thousand dollars	$ 3,000.00

SECRETARY OF STATE

FROM THE GENERAL FUND

Salaries, forty-six thousand six hundred twenty dollars	$ 46,620.00
Capital, repairs and replacements, one thousand two hundred dollars	$ 1,200.00
Operation, four thousand seven hundred twenty dollars	$ 4,720.00
Expenses for elections, amendments, initiative and referendum measures, twelve thousand nine hundred eighty dollars	$ 12,980.00
Public employees' retirement system and social security, two thousand two hundred twenty-five dollars	$ 2,225.00

ATTORNEY GENERAL

FROM THE GENERAL FUND

Salaries, seventy-seven thousand nine hundred dollars	$ 77,900.00
Capital, repairs and replacements, two thousand nine hundred dollars	$ 2,900.00
Operation, twelve thousand dollars	$ 12,000.00
Public employees' retirement system and social security, three thousand five hundred dollars	$ 3,500.00

FROM THE ESCHEATED ESTATES FUND

Salary, administration, seven thousand dollars	$ 7,000.00
Salary, others, three thousand dollars	$ 3,000.00
Operation, four thousand dollars	$ 4,000.00
Public employees' retirement system and social security, six hundred fifty dollars	$ 650.00

There is hereby appropriated and this does hereby appropriate from the escheated estates fund for the period July 1, 1959, and ending July 1, 1961, the sum of fifteen thousand dollars ($15,000.00) and no more or so much of that amount that may be needed to enforce the provisions of chapter 170, laws of 1953, Montana.

STATE TREASURER

FROM THE GENERAL FUND

Salaries, thirty-one thousand eight hundred sixty dollars	$ 31,860.00
Capital, repairs and replacements, three thousand five hundred seventy dollars	$ 3,570.00
Operation, two thousand six hundred sixty-one dollars	$ 2,661.00
Public employees' retirement system and social security, one thousand eight hundred dollars	$ 1,800.00

STATE AUDITOR
AUDITOR'S DIVISION

FROM THE GENERAL FUND

Salaries, thirty-two thousand six hundred dollars	$ 32,600.00
Capital, repairs and replacements, one thousand fifty dollars	$ 1,050.00
Operation, nine thousand one hundred ninety dollars	$ 9,190.00
Public employees' retirement system and social security, five thousand dollars	$ 5,000.00

FROM THE HIGHWAY FUND

Salaries and operation, twelve thousand five hundred dollars	$ 12,500.00

FROM THE INCOME TAX WITHHOLDING FUND

Salaries and operation, ten thousand dollars	$ 10,000.00

INSURANCE DEPARTMENT

FROM THE GENERAL FUND

Salaries, thirty-four thousand two hundred dollars	$ 34,200.00
Capital, repairs and replacements, one hundred dollars	$ 100.00
Operation, five thousand dollars	$ 5,000.00

INSURANCE RATING

FROM THE GENERAL FUND

Salaries and expenses, seven thousand seven hundred dollars	$ 7,700.00

INVESTMENT COMMISSIONER

FROM THE GENERAL FUND

Salaries, eight thousand dollars	$ 8,000.00
Operation, eight hundred dollars	$ 800.00

FIRE MARSHAL DIVISION

FROM THE GENERAL FUND

Salaries and expenses, fifteen thousand nine hundred dollars	$ 15,900.00
Capital, repairs and replacements, one thousand five hundred dollars	$ 1,500.00

FROM THE FIREMEN'S DISABILITY FUND

For the payment of the distribution of the firemen's disability fund, as provided in section 11-1919 of the Revised Codes of Montana, 1947, an appropriation sufficient to meet the requirements as provided by law.

RAILROAD COMMISSION

FROM THE GENERAL FUND

Salaries, one hundred thousand dollars	$100,000.00
Capital, repairs and replacements, four thousand one hundred fifty dollars	$ 4,150.00
Operation, thirty-three thousand two hundred forty-five dollars	$ 33,245.00
Public employees retirement system and social security, four thousand nine hundred dollars	$ 4,900.00

For pleading interstate commerce commission and court expenses, one thousand five hundred dollars	$ 1,500.00
For all expenses other than capital, repairs and replacements which may be incurred in connection with and by reason of an application to the commission for an increase in rate or tariff which exceeds the sum of one hundred thousand dollars ($100,000.00), and for expenses which may be incurred in connection with supervision and regulation of community television antenna or microwave service, ten thousand dollars	$ 10,000.00

All funds used from this appropriation for pleading interstate commerce commission cases must be substantiated by the interstate commerce commission case numbers including subject involved, and same must be submitted to the next legislative assembly in support of its next biennial budget request.

SUPERINTENDENT OF PUBLIC INSTRUCTION ADMINISTRATION AND SUPERVISORS

FROM THE GENERAL FUND

Salaries, seventy-five thousand one hundred forty dollars	$ 75,140.00
Capital, repairs and replacements, one thousand six hundred twenty-five dollars	$ 1,625.00
Operation, seventeen thousand seven hundred seventy-six dollars	$ 17,776.00
Public employees' retirement system, teachers' retirement system and social security, three thousand nine hundred sixty dollars	$ 3,960.00

SUPERVISED CORRESPONDENCE SCHOOL

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Salaries and expenses, forty-one thousand six hundred twenty dollars	$ 41,620.00
Capital, repairs and replacements, four hundred dollars	$ 400.00
Public employees' retirement system and teachers' retirement system and social security, one thousand nine hundred dollars	$ 1,900.00

SCHOOL LUNCH PROGRAM

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Salaries and expenses, eighteen thousand one hundred eighty dollars	$ 18,180.00

Public employees' retirement system, teachers' retirement system and social security, eight hundred seventy-five dollars	$ 875.00
Operation, five thousand eight hundred sixty dollars	$ 5,860.00
Capital, repair and replacement, two hundred dollars	$ 200.00

There is hereby appropriated from the public school equalization fund the sum of eighteen thousand dollars ($18,000.00) for a revolving fund for the biennium to cover the handling charges of commodities to districts, to be reimbursed by such districts.

CERTIFICATION DEPARTMENT

FROM THE GENERAL FUND

Salaries and expenses, two thousand five hundred dollars	$ 2,500.00

FROM THE TEACHERS' CERTIFICATE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

TEXTBOOK LICENSE DIVISION

FROM THE TEXTBOOK LICENSE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SURPLUS DONABLE PROPERTY DIVISION

FROM THE SURPLUS DONABLE PROPERTY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SUPREME COURT

FROM THE GENERAL FUND

Salaries, one hundred twelve thousand two hundred dollars	$112,200.00
Capital, repairs and replacements, two thousand seven hundred twenty-five dollars	$ 2,725.00
Operation, twelve thousand nine hundred ninety dollars	$ 12,990.00
Public employees' retirement system and social security, four thousand seven hundred fifteen dollars	$ 4,715.00

FROM THE GENERAL FUND

Salaries and expenses of commission on adoption of federal rules of procedure, three thousand dollars..........$ 3,000.00

ATTORNEYS' LICENSING BOARD

FROM THE ATTORNEYS' LICENSING FUND

As much as may be necessary to pay all lawful claims, as provided by law.

BOARD OF EDUCATION

FROM THE GENERAL FUND

For expenses, ten thousand eight hundred thirty-nine dollars ....$ 10,839.00

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

For salaries, ten thousand eight hundred thirty-nine dollars ....$ 10,839.00

FROM THE MILLAGE FUND

For salaries and expenses, ten thousand eight hundred thirty-nine dollars ....$ 10,839.00

WESTERN REGIONAL EDUCATION COMPACT

FROM THE GENERAL FUND

For expenses, ten thousand dollars ....$ 10,000.00

For student exchange fees, thirty-four thousand eight hundred dollars ....$ 34,800.00

VOCATIONAL EDUCATION

FROM THE GENERAL FUND

For salaries and expenses, thirty-five thousand dollars ....$ 35,000.00

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

For salaries and expenses, nineteen thousand one hundred twenty-five dollars ....$ 19,125.00

For reimbursement to local schools, thirty thousand dollars ....$ 30,000.00

In addition to the foregoing amounts, all income from federal funds known as vocation United States aid fund, George Borden fund, or any other federal funds that may be available, are hereby appropriated. No reimbursement shall be made to any of the units of the university of Montana from the above general fund appropriations.

VISUAL EDUCATION

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

For salaries, twenty-three thousand dollars	$ 23,000.00
For operation, six thousand four hundred twenty-five dollars	$ 6,425.00
For capital, repairs and replacements, five hundred dollars	$ 500.00
Public employees' retirement system, and teachers' retirement system, one thousand two hundred seventy-five dollars	$ 1,275.00

FROM THE FILM LIBRARY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SPECIAL EDUCATION DIVISION FOR EXCEPTIONAL CHILD SERVICES

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

For salaries and expenses, twelve thousand three hundred ninety-five dollars	$ 12,395.00

LIBRARY EXTENSION COMMISSION

FROM THE GENERAL FUND

Salaries and wages, seventeen thousand nine hundred forty dollars	$ 17,940.00
Operation, four thousand thirty-five dollars	$ 4,035.00
Capital outlay, twelve thousand four hundred dollars	$ 12,400.00
Repairs and replacements, two hundred dollars	$ 200.00
Public employees' retirement system and social security, one thousand ninety-seven dollars	$ 1,097.00
Library services to the blind, three thousand six hundred dollars	$ 3,600.00

In addition to the above appropriations, all trust funds and all monies received from federal assistance are hereby appropriated, subject to all statutory provisions.

Section 3. Any balances remaining in the revolving fund to cover the handling charges of commodities to districts, to be reimbursed by such districts under the school lunch program, shall revert to the public school equalization fund from which it was previously appropriated.

Section 4. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed for the period beginning July 1, 1960 and ending June 30, 1961.

GOVERNOR'S OFFICE

FROM THE GENERAL FUND

Salaries, thirty-one thousand five hundred dollars	$ 31,500.00
Capital, repairs and replacements, eight hundred fifty dollars	$ 850.00
Operation, nine thousand one hundred fifty dollars	$ 9,150.00
Public employees' retirement system and social security, eight hundred dollars	$ 800.00
Council of state government, six hundred dollars	$ 600.00

GOVERNOR'S MANSION

FROM THE GENERAL FUND

Salaries and expenses, six thousand five hundred dollars	$ 6,500.00
Capital, repairs and replacements, two thousand dollars	$ 2,000.00
Operation, two thousand five hundred eighty dollars	$ 2,580.00

OFFICE OF DIRECTOR OF BUDGET

FROM THE GENERAL FUND

Salaries and expenses, thirty thousand dollars	$ 30,000.00
Travel, seven thousand five hundred dollars	$ 7,500.00
Operations, three thousand dollars	$ 3,000.00
Printing budget document, twelve thousand dollars	$ 12,000.00
Public employees' retirement system and social security, one thousand dollars	$ 1,000.00

SECRETARY OF STATE

FROM THE GENERAL FUND

Salaries, forty-six thousand six hundred twenty dollars	$ 46,620.00

Capital, repairs and replacements, one thousand two hundred dollars $	1,200.00
Operation, six thousand one hundred twenty-five dollars $	6,125.00
Expenses for elections, publishing amendments, initiative and referendum measures, nine thousand dollars $	9,000.00
Public employees' retirement system and social security, two thousand two hundred twenty-five dollars $	2,225.00

ATTORNEY GENERAL

FROM THE GENERAL FUND

Salaries, seventy-seven thousand nine hundred dollars $	77,900.00
Capital, repairs and replacements, two thousand nine hundred dollars $	2,900.00
Operation, twelve thousand dollars $	12,000.00
Public employees' retirement system and social security, three thousand five hundred dollars $	3,500.00

FROM THE ESCHEATED ESTATES FUND

Salary, administration, seven thousand dollars $	7,000.00
Salary, others, three thousand dollars $	3,000.00
Operation, four thousand dollars $	4,000.00
Public employees' retirement system and social security, six hundred fifty dollars $	650.00

STATE TREASURER

FROM THE GENERAL FUND

Salaries, thirty-one thousand eight hundred sixty dollars $	31,860.00
Operation, two thousand six hundred sixty-one dollars $	2,661.00
Capital, repairs and replacements, eight hundred forty-one dollars $	841.00
Public employees' retirement system and social security, one thousand eight hundred dollars $	1,800.00

STATE AUDITOR
AUDITOR'S DIVISION

FROM THE GENERAL FUND

Salaries, thirty-two thousand six hundred dollars $	32,600.00
Capital, repairs and replacements, one thousand fifty dollars $	1,050.00

Operation, nine thousand one hundred ninety dollars....$	9,190.00
Public employees' retirement system and social security, five thousand dollars ....$	5,000.00

FROM THE HIGHWAY FUND

Salaries and operation, twelve thousand five hundred dollars ....$	12,500.00

FROM THE INCOME TAX WITHHOLDING FUND

Salaries and operation, ten thousand dollars....$	10,000.00

INSURANCE DEPARTMENT

FROM THE GENERAL FUND

Salaries, thirty-four thousand two hundred dollars......$	34,200.00
Capital, repairs and replacements, one hundred dollars ....$	100.00
Operation, five thousand dollars ....$	5,000.00

INSURANCE RATING

FROM THE GENERAL FUND

Salaries and expenses, seven thousand seven hundred dollars ....$	7,700.00

INVESTMENT COMMISSIONER

FROM THE GENERAL FUND

Salaries, eight thousand dollars ....$	8,000.00
Operation, eight hundred dollars ....$	800.00

FIRE MARSHAL DIVISION

FROM THE GENERAL FUND

Salaries and expenses, fifteen thousand nine hundred dollars.. ....$	15,900.00
Capital, repairs and replacements, one thousand five hundred dollars ....$	1,500.00

FROM THE FIREMEN'S DISABILITY FUND

For the payment of the distribution of the firemen's disability fund, as provided in section 11-1919 of the Revised Codes of Montana, 1947, an appropriation sufficient to meet the requirements as provided by law.

RAILROAD COMMISSION

FROM THE GENERAL FUND

Salaries, one hundred thousand two hundred fifty dollars	$100,250.00
Capital, repairs and replacements, one thousand one hundred fifty dollars	$ 1,150.00
Operation, thirty-four thousand seven hundred ninety-five dollars	$ 34,795.00
Public employees' retirement system and social security, five thousand dollars	$ 5,000.00
Pleading interstate commerce commission and court expense, one thousand five hundred dollars	$ 1,500.00

All funds used from this appropriation for pleading interstate commerce commission cases must be substantiated by the interstate commerce commission case numbers including subject involved, and same must be submitted to the next legislative assembly in support of its next biennial budget request.

SUPERINTENDENT OF PUBLIC INSTRUCTION ADMINISTRATION AND SUPERVISORS

FROM THE GENERAL FUND

Salaries, seventy-five thousand one hundred forty dollars	$ 75,140.00
Capital, repairs and replacements, one thousand six hundred twenty-five dollars	$ 1,625.00
Operation, seventeen thousand seven hundred seventy-six dollars	$ 17,776.00
Public employees' retirement system, and teachers' retirement system and social security, three thousand nine hundred sixty dollars	$ 3,960.00

SUPERVISED CORRESPONDENCE SCHOOL

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Salaries and expenses, forty-one thousand six hundred twenty dollars	$ 41,620.00
Capital, repairs and replacements, four hundred dollars	$ 400.00
Public employees' retirement system, teachers' retirement system and social security, one thousand nine hundred dollars	$ 1,900.00

SCHOOL LUNCH PROGRAM

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Salaries and expenses, eighteen thousand one hundred eighty dollars	$ 18,180.00
Operation, five thousand eight hundred sixty dollars	$ 5,860.00
Capital, repairs and replacements, two hundred dollars	$ 200.00
Public employees' retirement system, teachers' retirement system and social security, eight hundred seventy-five dollars	$ 875.00

CERTIFICATION DEPARTMENT

FROM THE GENERAL FUND

Salaries and expenses, two thousand five hundred dollars	$ 2,500.00

FROM THE TEACHERS' CERTIFICATE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

TEXTBOOK LICENSE DIVISION

FROM THE TEXTBOOK LICENSE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SURPLUS DONABLE PROPERTY DIVISION

FROM THE SURPLUS DONABLE PROPERTY FUND

As much as may be necessary to pay all lawful claims as provided by law.

SUPREME COURT

FROM THE GENERAL FUND

Salaries, one hundred twelve thousand two hundred dollars	$112,200.00
Capital, repairs and replacements, two thousand seven hundred twenty-five dollars	$ 2,725.00
Operations, twelve thousand nine hundred ninety dollars	$ 12,990.00
Public employees' retirement system and social security, four thousand seven hundred fifteen dollars	$ 4,715.00

ATTORNEYS' LICENSING BOARD

FROM THE ATTORNEYS' LICENSING FUND

As much as may be necessary to pay all lawful claims, as provided by law.

BOARD OF EDUCATION

FROM THE GENERAL FUND

For expenses, ten thousand eight hundred thirty-nine dollars	$ 10,839.00

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

For salaries, ten thousand eight hundred thirty-nine dollars	$ 10,839.00

FROM THE MILLAGE FUND

For salaries and expenses, ten thousand eight hundred thirty-nine dollars	$ 10,839.00

WESTERN REGIONAL EDUCATION COMPACT

FROM THE GENERAL FUND

For expenses, ten thousand dollars	$ 10,000.00
For student exchange fees, forty-one thousand six hundred dollars	$ 41,600.00

VOCATIONAL EDUCATION

FROM THE GENERAL FUND

For salaries and expenses, thirty-five thousand dollars	$ 35,000.00

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

For salaries and expenses, nineteen thousand one hundred twenty-five dollars	$ 19,125.00
For reimbursement to local schools, thirty thousand dollars	$ 30,000.00

In addition to the foregoing amounts, all income from federal funds known as vocation United States aid fund, George Borden fund, or any other federal funds that may be available, are hereby appropriated. No reimbursement shall be made to any of the units of the university of Montana from the above general fund appropriations.

VISUAL EDUCATION

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

For salaries, twenty-three thousand dollars	$ 23,000.00
For operation, six thousand four hundred twenty-five dollars	$ 6,425.00
For capital, repairs and replacements, five hundred dollars	$ 500.00
Public employees' retirement system and teachers' retirement system, one thousand two hundred seventy-five dollars	$ 1,275.00

FROM THE FILM LIBRARY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SPECIAL EDUCATION DIVISION FOR EXCEPTIONAL CHILD SERVICES

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

For salaries and expenses, twelve thousand three hundred ninety-five dollars	$ 12,395.00

LIBRARY EXTENSION COMMISSION

FROM THE GENERAL FUND

Salaries and wages, seventeen thousand nine hundred forty dollars	$ 17,940.00
Operation, four thousand thirty-five dollars	$ 4,035.00
Capital outlay, twelve thousand four hundred dollars	$ 12,400.00
Repairs and replacements, two hundred dollars	$ 200.00
Public employees' retirement system and social security, one thousand ninety-seven dollars	$ 1,097.00
Library services to the blind, three thousand six hundred dollars	$ 3,600.00

In addition to the above appropriations, all trust funds and all monies received from federal assistance are hereby appropriated, subject to all statutory provisions.

Section 5. It is further provided that all appropriations contained herein shall be used for the purposes designated and no other, and wherein appropriations are made for subdivisions, the appropriations given are not interchangeable between divisions.

and the definitions given in section 1 of this act shall govern all appropriations.

Section 6. Appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings or gatherings of like character, wherein the said meetings are held outside of the State of Montana, except by special permission of the state board of examiners who may deem it necessary for attendance on such meetings. The state board of examiners shall spread on its minutes the reasons for its permission.

Section 7. The appropriations herein above provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 14, 1959.

HOUSE BILL NO. 529

An Act to Appropriate Money to Provide Funds for the Administration of the Vocational Education Act of 1946 by the State Board of Education; Appropriating Money for the Administration of the National Defense Education Act of 1958 by the Superintendent of Public Instruction; and Providing that the Provisions Hereof Shall be Deemed Valid Notwithstanding the Provisions of the Budget Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury from the general fund, not otherwise appropriated, to the state board of education for the payment of salaries and expenses for administration of the vocational education act of 1946 (P.L. 79-586) as amended by P.L. 85-864, title VIII, for the following periods:

July 1, 1959 to June 30, 1960, both inclusive, the sum of ten thousand four hundred dollars	$ 10,400.00
July 1, 1960 to June 30, 1961, both inclusive, the sum of eleven thousand dollars	$ 11,000.00

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out

of any monies in the state treasury from the general fund, not otherwise appropriated, to the superintendent of public instruction for the payment of salaries and expenses for administration of title III, sections 301-304; title V, sections 501-504 (a) and title X, section 1009, of the national defense education act of 1958, P.L. 85-864, for the following periods:

July 1, 1959 to June 30, 1960, both inclusive, the sum of eighty-nine thousand six hundred dollars	$ 89,600.00
July 1, 1960 to June 30, 1961, both inclusive, the sum of eighty-nine thousand dollars	$ 89,000.00

Section 3. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 14, 1959.

HOUSE BILL NO. 530

An Act to Appropriate Money for the Purchase of Replacement Volume Three of the Revised Codes of Montana of 1947; and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum or sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury not otherwise appropriated, for the purchase of Replacement Volume III of the Revised Codes of Montana, 1947, published by the publishers and distributors thereof, as follows:

FROM THE GENERAL FUND

For four hundred fifty (450) copies of Replacement Volume III in two parts, at twenty-two dollars and fifty cents ($22.50) per volume, ten thousand one hundred twenty-five dollars	$ 10,125.00.

Section 2. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1959.

THIRTY-SIXTH LEGISLATIVE ASSEMBLY

HOUSE BILL NO. 532

An Act to Appropriate Money for the State Public School Equalization Fund and Providing for the Manner of Distribution Thereof for the Period Beginning July 1, 1959, and Ending June 30, 1961; and Providing that the Appropriations Herein Shall be Valid Notwithstanding the Provisions of the Budget Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there is hereby appropriated from the state treasury to the state public school equalization fund, to be distributed in accordance with the provisions of law, for the period beginning July 1, 1959, and ending June 30, 1960, the following sum or so much thereof as may be necessary:

FROM THE GENERAL FUND

Eight million ninety-four thousand four hundred sixty-nine dollars	$8,094,469.00

Section 2. That there is hereby appropriated from the state treasury to the state public school equalization fund, to be distributed in accordance with the provisions of law, for the period beginning July 1, 1960, and ending June 30, 1961, the following sum, or so much thereof as may be necessary:

FROM THE GENERAL FUND

Eight million nine hundred fifty-five thousand five hundred fifty-four dollars	$8,955,554.00

Section 3. No part of such funds shall be distributed prior to December 2, 1959.

Section 4. It is hereby provided that none of the funds allocated, or any other funds allocated to the state public school equalization fund, shall be paid out to the school districts of the state in excess of the foundation program needs, as established by section 75-3612, Revised Codes of Montana, 1947, as amended or in excess of the state equalization percentage established under the provisions of section 75-3619, Revised Codes of Montana, 1947.

Section 5. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 16, 1959.

HOUSE BILL NO. 533

An Act to Appropriate Money for the Payment of Insurance Premiums for Insurance on State Property Out of Certain Funds Designated Herein for the Period Beginning July 1, 1959, and Ending June 30, 1961; and Providing That the Appropriations Herein Shall be Held Valid Nothwithstanding the Provisions of the Budget Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the payment of insurance premiums on fire insurance to cover properties under construction during the term from July 1, 1959, to and including June 30, 1960, and to renew the fire insurance on the fine arts policy which expires June 1, 1960, and which amount is included in the amount designated from the general fund:

FROM THE GENERAL FUND

As much as may be necessary for premiums on insurance on institutions or departments applicable thereto, twenty thousand dollars .... $ 20,000.00

FROM THE MILLAGE FUND

As much as may be necessary for premiums on insurance on buildings or institutions for the greater university of Montana, twenty thousand dollars .... $ 20,000.00

FROM THE HIGHWAY FUND

As much as may be necessary for premiums on insurance for the highway department, two thousand dollars .... $ 2,000.00

FROM THE FISH AND GAME FUND

As much as may be necessary for premiums on insurance for the fish and game department, one thousand dollars .... $ 1,000.00

FROM THE MOTOR VEHICLE RECORDING FUND

As much as may be necessary for premiums on insurance for the motor vehicle department, two hundred dollars .... $ 200.00

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury and from special funds enumerated herein, not otherwise appropriated, for the payment of insurance premiums on fire insurance on state properties during the term from July 1, 1960, to June 30, 1961, both inclusive:

FROM THE GENERAL FUND

As much as may be necessary for premiums on insurance on institutions or departments applicable thereto, one hundred twenty thousand dollars $120,000.00

FROM THE MILLAGE FUND

As much as may be necessary for premiums on insurance on buildings or institutions for the greater university of Montana, one hundred twenty-five thousand dollars $125,000.00

FROM THE HIGHWAY FUND

As much as may be necessary for premiums on insurance for the highway department, thirty-five thousand dollars .... $ 35,000.00

FROM THE FISH AND GAME FUND

As much as may be necessary for premiums on insurance for the fish and game department, six thousand nine hundred dollars .... $ 6,900.00

FROM THE MOTOR VEHICLE RECORDING FUND

As much as may be necessary for premiums on insurance for the motor vehicle department, six hundred dollars .... $ 600.00

Section 3. The appropriations herein provided for shall be held valid notwithstanding the provisions of the budget act.

Approved March 14, 1959.

HOUSE BILL NO. 535

An Act to Appropriate Money for the Purpose of Supplementing Certain Funds to Defray Expenses of the Thirty-sixth Legislative Assembly; Providing That the Appropriations Herein Shall be

Valid Notwithstanding the Provisions of the Budget Act and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any monies in the state treasury, not otherwise appropriated, from the following named funds to the accounts indicated therein, for the purpose of paying the following supplemental claims:

(a) FROM THE GENERAL FUND

To account No. 405 for the purpose of paying legislative mileage and per diem claims, the sum of six thousand dollars	$ 6,000.00

(b) FROM THE GENERAL FUND

To account No. 406 for the purpose of paying legislative per diem claims of officers and attaches, the sum of twenty thousand dollars	$ 20,000.00

(c) FROM THE GENERAL FUND

To account No. 407 for the purpose of paying special committee investigation expenses, the sum of three thousand dollars	$ 3,000.00

(d) FROM THE GENERAL FUND

To account No. 407 for the purpose of paying special committee investigation expenses, the sum of twelve thousand five hundred and fifty-four dollars	$ 12,554.00

(e) FROM THE GENERAL FUND

To account No. 407 for the purpose of paying additional printing and incidental expenses, the sum of twenty-one thousand dollars	$ 21,000.00

Section 2. The appropriations herein provided for shall be held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1959, except as to section 1 (d).

THIRTY-SIXTH LEGISLATIVE ASSEMBLY

HOUSE BILL NO. 536

An Act to Appropriate Money for the Operation and Maintenance and for Other Purposes Designated Herein for the Several Units of the University of Montana, Known as Montana State University, Montana State College, Experiment Station and Substations, Extension Service, Montana School of Mines, Western Montana College of Education at Dillon, Eastern Montana College of Education at Billings, and Northern Montana College at Havre, the Office of the Executive Secretary, and for Student Fare Refunds for the Period Beginning July 1, 1959 and Ending June 30, 1961.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by context:

(1) The term ''salaries'' means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one month, the payment of which is hereby made a proper charge from funds appropriated for ''operation.''

(2) The term ''capital'' unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but in no event, shall the term ''capital'' mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term ''repairs'' means the amount to be paid for repair of any capital asset, including buildings or lands.

(4) The term ''replacements'' means the amount to be paid for replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original being worn out or broken.

(5) The term ''operation'' means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses'' means any expense, including salaries, capital repairs and replacements, and operation, as defined above.

(7) The term ''expense'' means any expense defined above, with the exception of salaries.

(8) The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than twenty days after the close of the fiscal year. Supplies purchased for a succeeding year are in violation of this act. In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balances at the end of the second year, except amounts encumbered by purchase order or obligated claims and not billed prior to the above date shall revert to the funds from which they were appropriated.

(9) When reference is made herein to any chapter or section of the Laws of Montana said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1959 and ending June 30, 1960.

MONTANA STATE UNIVERSITY AT MISSOULA

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, nine hundred eighty thousand five hundred and seven dollars ....$	980,507.00
For salaries and expense, forest conservation experiment station, fifty-six thousand and sixty-five dollars....$	56,065.00
For teachers' retirement system, as much as may be necessary not exceeding fifty-nine thousand dollars....$	59,000.00
For public employees' retirement system, as much as may be necessary, not exceeding twenty-seven thousand dollars ....$	27,000.00
For social security payments, as much as may be necessary, not exceeding sixty-five thousand dollars....$	65,000.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby ap-

propriated from the general fund for salaries and expenses, in lieu of fees and collections, five hundred thirty-three thousand dollars ....$ 533,000.00
provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for the fiscal year, but the total of such fees and collections so deposited, in the excess of such $533,000.00 is hereby also appropriated for such purposes.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund two million sixty-one thousand, one hundred forty-one dollars $2,061,141.00

In addition to the above appropriations, there is hereby appropriated from the general fund for reroofing Arts & Crafts Building, reroofing Jumbo Hall, constructing road around east side of campus, fire escapes on Main Hall and Old Science Hall, repairing bleachers, constructing shop-storage area, converting two boilers and repairing mains in heating plant and for equipment, two hundred eight thousand, two hundred dollars ....$ 208,200.00

In addition to the foregoing appropriations, all earnings of the forest experiment station and all federal or trust funds received or to be received are hereby appropriated for the forest conservation experiment station.

There is hereby appropriated for the use and benefit of the state university all income from land grants, endowments, trust funds, and federal grants, which may be received and in addition, all balances on hand to be used for the purposes for which funds were accumulated or given.

MONTANA STATE COLLEGE AT BOZEMAN

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one million one hundred fifty-nine thousand and eighty-four dollars $1,159,084.00

For salaries and expenses of the engineering experiment station, fifty-one thousand, four hundred and thirty-four dollars ....$ 51,434.00

For teachers' retirement system, as much as may be necessary, not exceeding sixty-one thousand dollars....$	61,000.00
For public employees' retirement system, as much as may be necessary, not exceeding thirty-eight thousand dollars ....$	38,000.00
For social security payments, as much as may be necessary, not exceeding sixty-four thousand, five hundred dollars ....$	64,500.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, five hundred thirty-four thousand, three hundred and seventy-two dollars ....$	534,372.00

provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of $534,372.00 is hereby also appropriated for such purposes.

In addition to the foregoing appropriations, there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, two million three hundred eighty-one thousand, five hundred and two dollars........	$2,381,502.00
In addition to the above appropriations, there is hereby appropriated from the general fund for moving and rebuilding veterinary research center, for electrical contract for medical science research building (Lewis Hall wing), and for completion of one-half the third floor of the new classroom building (Reid Hall), three hundred forty five thousand, nine hundred and forty-three dollars ....$	345,943.00
In addition to the foregoing appropriations there is hereby reappropriated from the general fund any balance from the $354,262.00 appropriated in part for metal, prefabricated or similar type structures for offices and laboratories in the previous biennium, not to exceed one hundred three thousand, nine hundred eight dollars and thirty-one cents ....$	103,908.31

In addition to the foregoing appropriations there is hereby appropriated for the use of the Montana State College, all income from land grants, endowments, trust funds and federal funds which have been received or will be received for the purposes for which said funds were given.

MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, two hundred twenty-four thousand, six hundred and forty-two dollars ....$	224,642.00
For teachers' retirement system, as much as may be necessary, not exceeding twelve thousand, seven hundred and forty-three dollars ....$	12,743.00
For public employees' retirement system, as much as may be necessary, not exceeding eight thousand eight hundred and sixty-nine dollars ....$	8,869.00
For social security payments, as much as may be necessary, not exceeding seventeen thousand, two hundred and one dollars ....$	17,201.00

All monies collected by the experiment station and animal husbandry department shall be set aside in a special fund, from which fund is hereby appropriated for the use of Montana agricultural experiment station so much thereof as may be necessary for the payment of salaries and expenses, including purchase of lands.

In addition to the above appropriations, there is hereby appropriated for the Montana agricultural experiment station, all federal funds and also all trust funds.

FROM THE GENERAL FUND

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, four hundred fifty-five thousand, seven hundred and forty-four dollars ....$	455,744.00

EXPERIMENTAL SUBSTATIONS OF THE MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses for each of the following sub-stations and branches.

Central Montana branch station, thirty-one thousand, six hundred and ninety-one dollars	$	31,691.00
Eastern branch station, thirty-five thousand, three hundred and seventy-two dollars	$	35,372.00
Horticulture branch station, twenty-three thousand and sixty dollars	$	23,060.00
Huntley branch station, seven thousand, six hundred and five dollars	$	7,605.00
For teachers' retirement system, as much as may be necessary, not exceeding three thousand, one hundred and one dollars	$	3,101.00
For public employees' retirement system, as much as may be necessary, not exceeding eight thousand two hundred and thirteen dollars	$	8,213.00
For social security payments, as much as may be necessary, not exceeding eight thousand, four hundred and ninety-nine dollars	$	8,499.00

FROM THE GENERAL FUND

Huntley branch station, thirty-seven thousand, seven hundred and nineteen dollars	$	37,719.00
North Montana branch station, sixty-four thousand and seventy-five dollars	$	64,075.00
Northwestern Montana branch station, twenty-nine thousand and eighty-two dollars	$	29,082.00
U. S. Range livestock experiment station, thirty-one thousand, seven hundred and two dollars	$	31,702.00
Montana grain inspection laboratory, twenty-one thousand, four hundred and eighty-four dollars	$	21,484.00
Montana wool laboratory, twenty-five thousand, four hundred and six dollars	$	25,406.00

In addition to the above appropriations, all monies collected by the several branches and substations shall be set aside, each in a trust fund and are hereby appropriated as much as may be necessary, for the purpose of paying salaries and expenses, including purchase of land.

In addition to the above appropriations, there is hereby appropriated all federal funds and trust funds that may be received for any of the sub-stations or branch stations.

AGRICULTURAL EXTENSION SERVICE OF MONTANA STATE COLLEGE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred eighty-four thousand and ninety-eight dollars ....$ 184,098.00

For teachers' retirement system, as much as may be necessary, not exceeding six hundred dollars..................$ 600.00

For public employees' retirement system, as much as may be necessary, not exceeding two thousand, eight hundred dollars ....$ 2,800.00

For social security payments, as much as may be necessary, not exceeding three thousand dollars..............$ 3,000.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, ten thousand dollars ....$ 10,000.00
provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $10,000.00 is hereby also appropriated for such purposes.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses to supplement appropriations from the university millage fund, three hundred thirty-three thousand, three hundred and eighty-eight dollars.........$ 333,388.00

In addition to the above appropriations there is hereby also appropriated for the extension service all federal funds and all trust funds.

MONTANA SCHOOL OF MINES AT BUTTE

FROM THE UNIVERSITY MILLAGE FUND

For salary and expenses, one hundred twenty-three thousand, nine hundred and thirty-two dollars ....$ 123,932.00

For teachers' retirement system, as much as may be necessary, not exceeding nine thousand and three hundred dollars ....$ 9,300.00

For public employees' retirement system, as much as may be necessary, not exceeding six thousand and thirty-two dollars .... $ 6,032.00

For social security payments, as much as may be necessary, not exceeding ten thousand and seven hundred dollars .... $ 10,700.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, forty-five thousand dollars .... $ 45,000.00
provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited in excess of such $45,000.00 is hereby also appropriated for such purposes.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, two hundred sixty-three thousand, eight hundred and sixty-five dollars .... $ 263,865.00

In addition to the above appropriations, there is hereby appropriated from the general fund for repairs to Main Hall and equipment for Strength of Materials Laboratory, forty-three thousand and seven hundred dollars .... $ 43,700.00

In addition to the above appropriations there is hereby appropriated for the school of mines all income from land grants, endowments, trust funds and all federal funds to be used for the purposes for which said funds were received.

BUREAU OF MINES AND GEOLOGY OF THE SCHOOL OF MINES

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-eight thousand, six hundred and thirty-eight dollars .... $ 48,638.00

FROM THE GENERAL FUND

In addition to the above appropriations there is hereby appropriated from the general fund for salaries and expenses to supplement appropriations from the university millage fund, seventy-nine thousand, six hundred and forty-two dollars ....$ 79,642.00

WESTERN MONTANA COLLEGE OF EDUCATION AT DILLON

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred and eighteen thousand, eight hundred and sixty dollars ....$ 118,860.00

For teachers' retirement system, as much as may be necessary, not exceeding nine thousand and eighty-seven dollars ....$ 9,087.00

For public employees' retirement system, as much as may be necessary, not exceeding four thousand and three hundred dollars ....$ 4,300.00

For social security payments, as much as may be necessary, not exceeding nine thousand, six hundred and thirteen dollars ....$ 9,613.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, sixty-five thousand dollars ....$ 65,000.00
provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $65,000.00, is hereby also appropriated for such purpose.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund two hundred forty-two thousand, nine hundred and seventy dollars ....$ 242,970.00

In addition to the above appropriations there is hereby appropriated from the general fund for replacing roof and repairing lights and wiring in Main Building, twenty-nine thousand dollars ....$ 29,000.00

In addition to the above appropriations there is hereby appropriated one-half (½) of all income from land grants for normal schools, all endowments and trust funds subject to all statutory provisions.

EASTERN MONTANA COLLEGE OF EDUCATION AT BILLINGS

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, three hundred thirty-two thousand and seventy-one dollars ....$ 332,071.00

For teachers' retirement system, as much as may be necessary, not exceeding sixteen thousand, three hundred and eighty-seven dollars ....$ 16,387.00

For public employees' retirement system, as much as may be necessary, not exceeding six thousand, two hundred and eighty-five dollars ....$ 6,285.00

For social security payments, as much as may be necessary, not exceeding fourteen thousand and ninety-three dollars ....$ 14,093.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, one hundred twenty-five thousand, nine hundred and sixty dollars ....$ 125,960.00
provided, however, that no claims shall be paid from the appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer for the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $125,960.00, is hereby also appropriated for such purposes.

In addition to the foregoing appropriation there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, six hundred forty-one thousand, seven hundred and forty-six dollars ....$ 641,746.00

In addition to the above appropriations there is hereby appropriated from the general fund for fire hydrants and repairs to the retaining wall on baseball field, twenty-nine thousand dollars ....$ 29,000.00

In addition to the above appropriation there is hereby appropriated one-half (½) of all income from land grants for normal schools, all endowments and trust funds subject to all statutory provisions.

NORTHERN MONTANA COLLEGE AT HAVRE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred eighty-nine thousand, eight hundred and thirty-nine dollars............$	189,839.00
For teachers' retirement system, as much as may be necessary, not exceeding nine thousand, six hundred dollars ....$	9,600.00
For public employees' retirement system, as much as may be necessary, not exceeding two thousand, eight hundred dollars ....$	2,800.00
For social security payments, as much as may be necessary, not exceeding eight thousand five hundred and twenty-five dollars ....$	8,525.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, eighty-four thousand, nine hundred and thirty dollars ....$	84,930.00

provided, however, that no claim shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $84,930.00 is hereby also appropriated for such purposes.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, three hundred sixty-two thousand, five hundred and eighty-three dollars ....$	362,583.00
In addition to the foregoing appropriations there is hereby appropriated from the general fund toward completion of Cowan Hall, ninety thousand dollars......$	90,000.00

In addition to each of the above appropriations, there is also hereby appropriated all trust funds and federal funds that may be received, to be used for the purposes to which they are given.

OFFICE OF EXECUTIVE SECRETARY OF THE UNIVERSITY OF MONTANA

FROM THE GENERAL FUND

For salaries and expenses, twenty-five thousand dollars ......$	25,000.00

STUDENT TRAVEL REFUNDS

FROM THE UNIVERSITY MILLAGE FUND

To equalize the traveling fare of students in attendance upon any of the institutions of the university of Montana two thousand dollars ......$	2,000.00

Section 3. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of money in the state treasury and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed for the period beginning July 1, 1960 and ending June 30, 1961.

MONTANA STATE UNIVERSITY AT MISSOULA

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one million, fifteen thousand, three hundred thirty-seven dollars ......$	1,015,337.00
For salaries and expenses for the forest conservation experiment station, forty-nine thousand, seven hundred and sixty-seven dollars ......$	49,767.00
For teachers' retirement system, as much as may be necessary, not exceeding sixty-one thousand dollars....$	61,000.00
For public employees' retirement system, as much as may be necessary, not exceeding twenty-seven thousand dollars ......$	27,000.00
For social security payments, as much as may be necessary, not exceeding seventy-five thousand dollars ......$	75,000.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, five hundred ninety-eight thousand dollars ......$	598,000.00

provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasury to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $598,000.00, is hereby also appropriated for such purposes.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, two million, one hundred eighty-five thousand, eight hundred and sixty-three dollars	$2,185,863.00

In addition to the foregoing appropriations, all earnings of the forest experiment station and all federal and trust funds received or to be received are hereby appropriated to the forest conservation experiment station.

There is hereby appropriated for the use and benefit of the state university all income from land grants, endowments, trust funds, and federal grants which may be received and in addition all balances on hand to be used for the purposes for which such funds were accumulated or given.

MONTANA STATE COLLEGE AT BOZEMAN FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one million, one hundred and four thousand and fifty-one dollars	$1,104,051.00
For salaries and expenses of the engineering experiment station fifty-one thousand, four hundred and thirty-five dollars	$ 51,435.00
For teachers' retirement system, as much as may be necessary, not exceeding sixty-five thousand dollars	$ 65,000.00
For public employees' retirement system, as much as may be necessary, not exceeding forty-three thousand, five hundred dollars	$ 43,500.00
For social security payments, as much as may be necessary, not exceeding sixty-nine thousand, five hundred dollars	$ 69,500.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, five hundred eighty thousand, two hundred and fourteen dollars ....$ 580,214.00

provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $580,214.00, is hereby also appropriated for such purposes.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, two million, three hundred and seventy-eight thousand, and ninety-four dollars....$2,378,094.00

In addition to the foregoing appropriations there is hereby appropriated for the use of the Montana State College, all income from land grants, endowments, trust funds and federal funds which have been received or will be received for the purposes for which said funds were given.

MONTANA AGRICULTURAL EXPERIMENT STATION FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, two hundred fifteen thousand, six hundred and ninety-nine dollars ....$ 215,699.00

For teachers' retirement system, as much as may be necessary, not exceeding twelve thousand, nine hundred and thirty dollars ....$ 12,930.00

For public employees' retirement system, as much as may be necessary, not exceeding nine thousand, two hundred and twenty-four dollars ....$ 9,224.00

For social security payments, as much as may be necessary, not exceeding seventeen thousand, four hundred and ninety-five dollars ....$ 17,495.00

All monies collected by the experiment station and animal husbandry department shall be set aside in a special fund from which fund there is hereby appropriated for the use of the Montana agricultural experiment station so much thereof as may be necessary for the payment of salaries and expenses, including purchase of lands.

In addition to the above appropriation, there is hereby appropriated for the Montana agricultural experiment station all federal funds and also all trust funds.

FROM THE GENERAL FUND

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund four hundred and fifty thousand, two hundred and twenty-four dollars ....$	450,224.00

EXPERIMENTAL SUB-STATIONS OF THE MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses for each of the following sub-stations and branches:

Central Montana branch station, thirty-one thousand, six hundred and ninety-one dollars ....$	31,691.00
Eastern branch station, thirty-five thousand, three hundred and seventy-two dollars ....$	35,372.00
Horticulture branch station, twenty-three thousand and sixty-one dollars ....$	23,061.00
Huntley branch station, seven thousand, two hundred and forty-five dollars ....$	7,245.00
For teachers' retirement system, as much as may be necessary, not exceeding three thousand, one hundred and one dollars ....$	3,101.00
For public employees' retirement system, as much as may be necessary, not exceeding eight thousand, three hundred and seventy-seven dollars ....$	8,377.00
For social security payments, as much as may be necessary, not exceeding eight thousand, six hundred and ninety-four dollars ....$	8,694.00

FROM THE GENERAL FUND

In addition to the above appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, for the following sub-stations and branches:

Huntley branch station, thirty-eight thousand and seventy-nine dollars ....$	38,079.00
North Montana branch station, sixty-four thousand, seventy-five dollars ....$	64,075.00
Northwestern Montana branch station, twenty-nine thousand, and eighty-two dollars ....$	29,082.00
U. S. Range station, thirty-one thousand, seven hundred and two dollars ....$	31,702.00
Montana grain inspection laboratory, twenty-one thousand, four hundred eighty-four dollars ....$	21,484.00
Montana wool laboratory, twenty-five thousand, four hundred and six dollars ....$	25,406.00

In addition to the above appropriations, all monies collected by the several branches and sub-stations shall be set aside, each in a trust fund and are hereby appropriated as much as may be necessary, for the purpose of paying salaries and expenses, including purchase of land.

In addition to the above appropriations, there is hereby appropriated all federal funds and trust funds that may be received for any of the sub-stations or branch stations.

AGRICULTURAL EXTENSION SERVICE OF THE MONTANA STATE COLLEGE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred eighty thousand and forty-five dollars ....$	180,045.00
For teachers' retirement system, as much as may be necessary, not exceeding six hundred dollars ....$	600.00
For public employees' retirement system, as much as may be necessary, not exceeding two thousand eight hundred dollars ....$	2,800.00
For social security payments, as much as may be necessary, not exceeding three thousand dollars........$	3,000.00

FROM THE GENERAL FUND

In addition to the above appropriations there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections ten thousand dollars ....$	10,000.00

provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $10,000.00 is hereby also appropriated for such purposes.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, three hundred and thirty-seven thousand, four hundred and forty-two dollars....$ 337,442.00

In addition to the above appropriations there is hereby also appropriated for the extension service all federal funds and all trust funds.

MONTANA SCHOOL OF MINES AT BUTTE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred twenty-three thousand, and one dollars ....$ 123,001.00

For teachers' retirement system, as much as may be necessary, not exceeding nine thousand, three hundred dollars ....$ 9,300.00

For public employees' retirement system, as much as may be necessary, not exceeding six thousand, five hundred and sixty-five dollars ....$ 6,565.00

For social security payments, as much as may be necessary, not exceeding eleven thousand, one hundred dollars ....$ 11,100.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses in lieu of fees and collections, forty-six thousand, five hundred dollars ....$ 46,500.00
provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited in excess of $46,500.00 is hereby also appropriated for such purposes.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from

the university millage fund, two hundred sixty-two thousand, three hundred and sixty-four dollars ....$	262,364.00

In addition to the above appropriation there is hereby appropriated for the school of mines all income from land grants, endowments, trust funds and all federal funds to be used for the purposes for which said funds were received.

BUREAU OF MINES AND GEOLOGY OF THE SCHOOL OF MINES

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-eight thousand, six hundred and thirty-eight dollars ....$	48,638.00

FROM THE GENERAL FUND

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses to supplement appropriations from the university millage fund, seventy-nine thousand, six hundred and forty-two dollars ....$	79,642.00

WESTERN MONTANA COLLEGE OF EDUCATION AT DILLON

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred twenty-two thousand, nine hundred and thirteen dollars ....$	122,913.00
For teachers' retirement system, as much as may be necessary, not exceeding ten thousand, and eighteen dollars ....$	10,018.00
For public employees' retirement system, as much as may be necessary, not exceeding three thousand, three hundred and sixty-nine dollars ....$	3,369.00
For social security payments, as much as may be necessary, not exceeding nine thousand, six hundred and thirteen dollars ....$	9,613.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, seventy-two thousand dollars ....$	72,000.00

provided, however, that no claims shall be paid from the appropriations that would exceed, in the aggregate, the amount of the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $72,000.00 is hereby appropriated for such purpose.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, two hundred sixty-three thousand, eight hundred and eighty-one dollars............$ 263,881.00

In addition to the above appropriations there is hereby appropriated one-half (½) of all income from land grants for normal schools, all endowments and trust funds, subject to all statutory provisions.

EASTERN MONTANA COLLEGE OF EDUCATION AT BILLINGS

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, three hundred forty-seven thousand, five hundred and forty-four dollars....$ 347,544.00

For teachers' retirement system, as much as may be necessary, not exceeding sixteen thousand, six hundred and thirty-seven dollars ....$ 16,637.00

For public employees' retirement system, as much as may be necessary, not exceeding six thousand, five hundred and thirty-five dollars ....$ 6,535.00

For social security payments, as much as may be necessary, not exceeding fourteen thousand, three hundred and thirty-three dollars ....$ 14,333.00

FROM THE GENERAL FUND

In addition to the above appropriation, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, one hundred thirty thousand, seven hundred and sixty-three dollars ....$ 130,763.00
provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and

collections so deposited, in excess of such $130,763.00 is hereby also appropriated for such purposes.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, six hundred ninety-one thousand, seven hundred and forty-six dollars........$ 691,746.00

In addition to the above appropriations, there is hereby appropriated one-half (½) of all income from land grants, all endowments and trust funds subject to all statutory provisions.

NORTHERN MONTANA COLLEGE AT HAVRE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred eighty-one thousand, three hundred and seventy-seven dollars......$ 181,377.00

For teachers' retirement system, as much as may be necessary, not exceeding nine thousand, seven hundred and fifty dollars ....$ 9,750.00

For public employees' retirement system, as much as may be necessary, not exceeding two thousand, eight hundred and fifty dollars ....$ 2,850.00

For social security payments, as much as may be necessary, not exceeding eight thousand, six hundred and eighty dollars ....$ 8,680.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, eighty-seven thousand, three hundred dollars ....$ 87,300.00 provided, however, that no claims shall be paid from this appropriation that would exceed, in the aggregate, the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, but the total of such fees and collections so deposited, in excess of such $87,300.00, is hereby also appropriated for such purposes.

In addition to the foregoing appropriations there is hereby appropriated from the general fund for salaries and expenses, to supplement appropriations from the university millage fund, three hundred sixty-eight thousand, three hundred and twenty dollars ....$ 368,320.00

In addition to the above appropriations, there is also appropriated all trust funds and federal funds that may be received, to be used for the purposes to which they are given.

OFFICE OF THE EXECUTIVE SECRETARY OF THE UNIVERSITY OF MONTANA

FROM THE GENERAL FUND

For salaries and expenses, seventy thousand dollars..$ 70,000.00

STUDENT TRAVEL REFUNDS

FROM THE UNIVERSITY MILLAGE FUND

To equalize the traveling fare of students in attendance upon any of the institutions of the university of Montana, two thousand dollars ....$ 2,000.00

Section 4. The appropriation contained herein shall only be used for the purposes designated, nor shall they be interchangeable, and all appropriations provided herein are subject to the definitions appearing in section 1 of this act. In the event any institution, department, station, service, or other division receives specific appropriations from sources other than the university millage fund, or the general fund, excepting trust funds governed by specific provisions of law, the money from such other sources shall be used to the extent lawfully available, before resorting to the appropriations from the university millage fund, or the general fund, but in no event shall they be used for the purposes other than that for which they were provided.

Section 5. The appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings or gatherings of like character, wherein said meetings are held outside the State of Montana, except by special permission of the state board of education obtained in advance.

Approved March 14, 1959.

HOUSE BILL NO. 537

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for Certain State Institutions, for the Period Beginning July 1, 1959, and Ending June 30, 1961.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term ''salaries'' means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one (1) month, the payment of which is hereby made a proper charge from funds appropriated for ''operation.''

(2) The term ''capital,'' unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term ''capital'' mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term ''repairs'' means the amount to be paid for the repair of any capital asset, including buildings or lands.

(4) The term ''replacements'' means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original being worn out or broken.

(5) The term ''operation'' means all other expenditures which are necesssary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term ''salaries and expenses'' means any expense, including salaries, capital, repairs, replacements and operation, as defined above.

(7) The term "expense'' means any expense defined above, with the exception of salaries.

(8) The term ''public employees' retirement system'' means the state contribution to the public employees' retirement system and said money is to be used for that purpose and no other.

(9) The term "teachers' retirement system" means the state contribution to the teachers' retirement system and said money is to be used for that purpose and no other.

(10) The term "social security" means the state contributions to the social security fund and said money is to be used for that purpose and no other.

(11) The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than twenty (20) days after the close of the fiscal year. Supplies purchased for a succeeding year are in violation of this act. In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balances at the end of the second year, except amounts encumbered by purchase order or obligated claims and not billed prior to the above date shall revert to the funds from which they were appropriated.

(12) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all amendatory thereto.

Section 2. That the following sums, or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1959 and ending June 30, 1960.

SCHOOL FOR THE DEAF AND BLIND

FROM THE GENERAL FUND

Salary of the superintendent, eight thousand dollars	$ 8,000.00
Salaries and expenses, one hundred ninety-six thousand two hundred dollars	$ 196,200.00
Public employees' retirement system, teachers' retirement system and social security, ten thousand two hundred dollars	$ 10,200.00
Special requests:	
Four classroom building, one hundred thousand dollars	$ 100,000.00
Land purchase, three thousand dollars	$ 3,000.00

In addition to the above appropriation, there is hereby appropriated all income from land grants and any trust funds which may be received, subject to statutory provisions and obligations of any outstanding bond issues.

STATE ORPHANS' HOME

FROM THE GENERAL FUND

Salary of the superintendent, six thousand five hundred dollars $	6,500.00
Other salaries and expenses, three hundred forty-one thousand three hundred fifty dollars $	341,350.00
Public employees' retirement system, teachers' retirement system and social security, eleven thousand three hundred fifty dollars $	11,350.00
Special requests:	
Sewage lagoon, thirty thousand dollars $	30,000.00
Stand-by well, fifteen thousand dollars $	15,000.00
Two cottages, one hundred ninety-six thousand dollars $	196,000.00
Re-wire cottages, nineteen thousand two hundred thirty dollars $	19,230.00

In addition to the above appropriations, all trust funds are hereby appropriated for the purposes for which said funds are received.

STATE VOCATIONAL SCHOOL FOR GIRLS

FROM THE GENERAL FUND

Salary of the superintendent, six thousand dollars $	6,000.00
Salaries and expenses, one hundred eighty-one thousand five hundred twelve dollars $	181,512.00
Public employees' retirement system, teachers' retirement system, and social security, five thousand five hundred sixty dollars $	5,560.00
Special requests:	
Complete and furnish new treatment building, five thousand dollars $	5,000.00
New standpipe and 60,000 gallon water tank, fifty-five thousand dollars $	55,000.00
Sewage disposal lagoon, lift station, thirty-one thousand dollars $	31,000.00
Additional toilet, bathing facilities, two thousand dollars $	2,000.00
Painting exterior wood on all buildings, six thousand five hundred dollars $	6,500.00
For walks and steps, three thousand dollars $	3,000.00

New girls dormitory cottage for twenty-five girls, build and furnish, ninety-five thousand dollars............$	95,000.00

In addition to the above appropriations, all trust funds which may be received by the institution are hereby appropriated.

STATE SOLDIERS' HOME

FROM THE GENERAL FUND

Salary of the commandant, four thousand six hundred dollars ....$	4,600.00
Salaries and expenses, sixty-eight thousand one hundred fifty dollars ....$	68,150.00
Public employees' retirement system and social security, four thousand two hundred fifty dollars ....$	4,250.00

In addition to the above appropriations, all monies received from federal assistance and income from land grants are hereby appropriated subject to all statutory provisions.

STATE TRAINING SCHOOL

FROM THE GENERAL FUND

Salary of the superintendent, ten thousand dollars....$	10,000.00
Salaries and expenses, eight hundred fifty-eight thousand six hundred fifty dollars ....$	858,650.00
Public employees' retirement system, teachers' retirement system and social security, thirty-one thousand three hundred fifty dollars ....$	31,350.00

All monies collected by the State Training School for the care and maintenance of patients are hereby appropriated to the State Training School for the construction of a nursery-type building at a figure not to exceed one hundred eighty thousand dollars ($180,000.00).

This fund is to be expended by the superintendent of the school including the selection and employment of the architect and the letting of the contracts.

In addition all trust funds are hereby appropriated subject to all statutory provisions.

STATE TUBERCULOSIS SANITARIUM

FROM THE GENERAL FUND

Salary of the superintendent, twelve thousand dollars	$ 12,000.00
Salaries and expenses, one million one hundred twenty-four thousand five hundred seventy-five dollars	$1,124,575.00
Public employees' retirement system and social security, forty-nine thousand five hundred dollars	$ 49,500.00

Special request:

Sewer line, sixty thousand dollars	$ 60,000.00

In addition, all trust funds are hereby appropriated subject to all statutory provisions.

STATE PRISON

FROM THE GENERAL FUND

Salary of the warden, eight thousand four hundred dollars	$ 8,400.00
Salaries and expenses, one million three hundred fifty-eight thousand six hundred eleven dollars	$1,358,611.00
Public employees' retirement system and social security, forty-nine thousand dollars	$ 49,000.00

Special requests:

General repairs, one hundred two thousand dollars	$ 102,000.00
Swine and chicken units, twenty-five thousand dollars	$ 25,000.00

In addition to the above, all trust funds which may be received are hereby appropriated.

LICENSE PLATE FACTORY

FROM THE MOTOR RECORDING FUND

Salaries and expenses, as much as may be necessary to pay lawful claims in the making of license plates, is hereby appropriated.

BUREAU OF IDENTIFICATION

FROM THE GENERAL FUND

Salaries and expenses, eighteen thousand eight hundred dollars ...$	18,800.00
Public employees' retirement system and social security, nine hundred sixty dollars ...$	960.00

HOME FOR SENILE MEN AND WOMEN

FROM THE GENERAL FUND

Salary of superintendent, six thousand dollars...$	6,000.00
Salaries and expenses, one hundred thirty-one thousand six hundred seventy dollars ...$	131,670.00
Public employees' retirement system and social security, five thousand seven hundred fifty dollars...$	5,750.00
Special requests:	
Remodel kitchens, surgical and linen rooms into additional patient quarters, twenty thousand dollars...$	20,000.00

In addition to the above appropriations, there is hereby appropriated all monies which have been received or will be received for the purposes for which said funds were given.

STATE HOSPITAL

FROM THE GENERAL FUND

Salary of the superintendent, twelve thousand dollars ...$	12,000.00
Salaries and expenses, two million six hundred sixty-four thousand three hundred eleven dollars ...$	2,664,311.00
Public employees' retirement system and social security, one hundred five thousand two hundred ten dollars ...$	105,210.00
Special requests:	
Sewage lagoon, ninety-four thousand dollars...$	94,000.00
Overhead electrical system, thirteen thousand eight hundred dollars ...$	13,800.00
Remodel infirmary, fifty-five thousand dollars...$	55,000.00

All monies collected by the State Hospital for the care and maintenance of patients are hereby appropriated to the State Hospital for the construction of a food center, at not to exceed three hundred twenty-five thousand dollars ($325,000.00) and a multi-purpose-activity building at not to exceed one hundred ninety thousand dollars ($190,000.00).

This fund is to be expended by the superintendent of the hospital, including the selection and the employment of the architect and the letting of the contracts.

MENTAL HYGIENE DIVISION

FROM THE GENERAL FUND

Salaries and expenses, one hundred thirty-one thousand seven hundred seven dollars	$ 131,707.00
Public employees' retirement system and social security, four thousand five hundred seventy dollars	$ 4,570.00

In addition to the above appropriations, all trust funds and all monies received from federal assistance are hereby appropriated subject to all statutory provisions.

STATE INDUSTRIAL SCHOOL

FROM THE GENERAL FUND

Salary of the superintendent, seven thousand five hundred dollars	$ 7,500.00
Salaries and expenses, three hundred seventy-two thousand six hundred dollars	$ 372,600.00
Public employees' retirement system, teachers' retirement system and social security, sixteen thousand dollars	$ 16,000.00

Special requests:

Addition to heating plant for plumbing and electrical shop, eight thousand dollars	$ 8,000.00
Used bus, two thousand dollars	$ 2,000.00
Land leveling, two thousand five hundred dollars	$ 2,500.00
General repair, four thousand dollars	$ 4,000.00
New gymnasium, ninety thousand dollars	$ 90,000.00

Duplex construction furnished, thirty thousand dollars	$ 30,000.00

In addition to the above appropriations, there is hereby appropriated all income from land grants and any trust funds which may be received, subject to statutory provisions and obligations of any outstanding bond issues.

Section 3. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1960 and ending June 30, 1961.

SCHOOL FOR THE DEAF AND BLIND

FROM THE GENERAL FUND

Salary of the superintendent, eight thousand dollars	$ 8,000.00
Salaries and expenses, one hundred ninety-six thousand two hundred dollars	$ 196,200.00
Public employees' retirement system, teachers' retirement system and social security, ten thousand two hundred dollars	$ 10,200.00

In addition to the above appropriation, there is hereby appropriated all income from land grants and any trust funds which may be received subject to statutory provisions and obligations of any outstanding bond issues.

STATE ORPHANS' HOME

FROM THE GENERAL FUND

Salary of the superintendent, six thousand five hundred dollars	$ 6,500.00
Other salaries and expenses, three hundred forty-one thousand three hundred fifty dollars	$ 341,350.00
Public employees' retirement system, teachers' retirement system and social security, eleven thousand three hundred fifty dollars	$ 11,350.00

In addition to the above appropriations all trust funds are hereby appropriated for which said funds are received.

STATE VOCATIONAL SCHOOL FOR GIRLS

FROM THE GENERAL FUND

Salary of the superintendent, six thousand dollars....$	6,000.00
Salaries and expenses, one hundred eighty-one thousand five hundred twelve dollars ....$	181,512.00
Public employees' retirement system, teachers' retirement system and social security, five thousand five hundred sixty dollars ....$	5,560.00

In addition to the above appropriations, all trust funds which may be received by the institution are hereby appropriated.

STATE SOLDIERS' HOME

FROM THE GENERAL FUND

Salary of the commandant, four thousand six hundred dollars ....$	4,600.00
Salaries and expenses, sixty-eight thousand one hundred fifty dollars ....$	68,150.00
Public employees' retirement system, and social security, four thousand two hundred fifty dollars....$	4,250.00

In addition to the above appropriations, all monies received from federal assistance and income from land grants are hereby appropriated subject to all statutory provisions.

STATE TRAINING SCHOOL

FROM THE GENERAL FUND

Salary of the superintendent, ten thousand dollars....$	10,000.00
Salaries and expenses, eight hundred seventy-nine thousand six hundred fifty dollars ....$	879,650.00
Public employees' retirement system, teachers' retirement system and social security, thirty-one thousand three hundred fifty dollars ....$	31,350.00

All monies collected by the State Training School for the care and maintenance of patients are hereby appropriated to the State Training School for the construction of a nursery-type building at a figure not to exceed one hundred eighty thousand dollars ($180,000.00).

This fund is to be expended by the superintendent of the school including the selection and employment of the architect and the letting of the contracts.

In addition, all trust funds are hereby appropriated subject to all statutory provisions.

STATE TUBERCULOSIS SANITARIUM

FROM THE GENERAL FUND

Salary of the superintendent, twelve thousand dollars .... $ 12,000.00

Salaries and expenses, one million one hundred twenty-four thousand five hundred seventy-five dollars $1,124,575.00

Public employees' retirement system and social security, forty-nine thousand five hundred dollars .... $ 49,500.00

In addition, all trust funds are hereby appropriated subject to all statutory provisions.

STATE PRISON

FROM THE GENERAL FUND

Salary of the warden, eight thousand four hundred dollars .... $ 8,400.00

Salaries and expenses, one million three hundred fifty-eight thousand six hundred eleven dollars $1,358,611.00

Public employees' retirement system and social security, forty-nine thousand dollars .... $ 49,000.00

In addition to the above, all trust funds which may be received are hereby appropriated.

LICENSE PLATE FACTORY

FROM THE MOTOR RECORDING FUND

For salaries and expenses, as much as may be necessary to pay lawful claims in the making of license plates, is hereby appropriated.

BUREAU OF IDENTIFICATION

FROM THE GENERAL FUND

Salaries and expenses, eighteen thousand eight hundred dollars .... $ 18,800.00

Public employees' retirement system and social security, nine hundred sixty dollars ....$	960.00

HOME FOR SENILE MEN AND WOMEN

FROM THE GENERAL FUND

Salary of the superintendent, six thousand dollars....$	6,000.00
Salaries and expenses, one hundred thirty-six thousand six hundred seventy dollars ....$	136,670.00
Public employees' retirement system and social security, five thousand seven hundred fifty dollars....$	5,750.00

In addition to the above appropriations, there is hereby appropriated all monies which have been received or will be received for the purposes for which said funds were given.

STATE HOSPITAL

FROM THE GENERAL FUND

Salary of the superintendent, twelve thousand dollars ....$	12,000.00
Salary and expenses, two million six hundred sixty-four thousand three hundred eleven dollars....$	2,664,311.00
Public employees' retirement system and social security, one hundred five thousand two hundred ten dollars ....$	105,210.00

All monies collected by the State Hospital for the care and maintenance of patients are hereby appropriated to the State Hospital for the construction of a food center, at not to exceed three hundred twenty-five thousand dollars ($325,000.00) and a multi-purpose activity-building at not to exceed one hundred ninety thousand dollars ($190,000.00).

This fund is to be expended by the superintendent of the hospital, including the selection and the employment of the architect and the letting of the contracts.

MENTAL HYGIENE DIVISION

FROM THE GENERAL FUND

Salaries and expenses, one hundred thirty-one thousand seven hundred seven dollars ....$	131,707.00

Public employees' retirement system and social security, four thousand five hundred seventy dollars........$ 4,570.00

In addition to the above appropriations, all trust funds and all monies received from federal assistance are hereby appropriated subject to all statutory provisions.

STATE INDUSTRIAL SCHOOL

FROM THE GENERAL FUND

Salary of the superintendent, seven thousand five hundred dollars ....$ 7,500.00

Salaries and expenses, three hundred seventy-two thousand six hundred dollars ....$ 372,600.00

Public employees' retirement system, teachers' retirement system and social security, sixteen thousand dollars ....$ 16,000.00

In addition to the above appropriations, all income from land grants and trust funds, which may be received is hereby appropriated subject to all statutory provisions and obligations of any outstanding bond issue.

Section 4. Provided, further, that all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in section 1 of this act shall govern all appropriations.

Section 5. Appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings or gatherings of like character, wherein the said meetings are held outside of the State of Montana, except by special permission of the state board of examiners who may deem it necessary for attendance on such meetings. The state board of examiners shall spread on its minutes the reasons for its permission.

Section 6. It is further provided that wherein institutions have appropriations from funds other than the general fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used, when available, before using the appropriations from the general fund.

Approved March 14, 1959.

SUBSTITUTE HOUSE BILL NO. 538

An Act to Appropriate Money for the State Department of Public Welfare of the State of Montana for Public Assistance, for Administrative Costs in the State Department and in the County Departments of Public Welfare and for All Other Expenditures Coming Under the State Department of Public Welfare Which They May Lawfully Incur, for the Period Beginning With July 1, 1959, and Terminating With June 30, 1961.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated for the state department of public welfare of the State of Montana, out of any funds in the state treasury not otherwise appropriated, the sum of four million two hundred thirty-four thousand five hundred dollars ($4,234,500.00), for public assistance, for administrative costs in the state department and the county departments of public welfare and for all other expenditures coming under the state department of public welfare which they may lawfully incur for the fiscal year beginning with July 1, 1959, and terminating with June 30, 1960.

Section 2. Without hereby limiting the powers of the state board of public welfare, as in this act otherwise provided, the amounts appropriated in the foregoing section and paid into the public welfare fund of the state treasury may be expended for the following purposes:

(a) For old age assistance, the sum of one million four hundred twenty-five thousand dollars $1,425,000.00

(b) For aid to dependent children, the sum of eight hundred forty-five thousand dollars ....$ 845,000.00

(c) For aid to needy blind, the sum of two hundred one thousand dollars ....$ 201,000.00

(d) For aid to the permanently and totally disabled, the sum of one hundred ninety-five thousand five hundred dollars ....$ 195,500.00

(e) For child welfare services, including all state administrative costs, the sum of fifty-seven thousand five hundred dollars ....$ 57,500.00

(f) For the payment of board and room for dependent and neglected children in approved family foster homes in cases where the county of residence of such children pays one half of such cost, the sum of seventy-five thousand dollars ....$ 75,000.00

(g) For general relief and contingencies, the sum of five hundred fifty thousand dollars ....$ 550,000.00

(h) For payment to persons having silicosis, pursuant to provisions of section 71-1001 to 71-1008 inclusive, Revised Codes of Montana, 1947, as amended, and for medical examinations, transportation and other related services, the sum of six hundred nine thousand five hundred dollars ....$ 609,500.00

(i) For employer's contribution to the public employees' retirement system and social security, the sum of twenty-six thousand dollars ....$ 26,000.00

(j) For administrative costs of the state department not otherwise provided for including advances of the compensation and expenses of the personnel staff attached to county welfare boards the sum of two hundred fifty thousand dollars ....$ 250,000.00

Section 3. There is hereby appropriated for the state department of public welfare of the State of Montana out of any funds in the state treasury not otherwise appropriated, the sum of four million two hundred thirty-four thousand five hundred dollars ($4,234,500.00), for public assistance, for administrative costs in the state department and in the county departments of public welfare and for all other expenditures coming under the state department of public welfare which they may lawfully incur for the fiscal year beginning with July 1, 1960 and terminating with June 30, 1961.

Section 4. Without hereby limiting the powers of the state board of public welfare, as in this act otherwise provided, the amounts appropriated in the foregoing section and paid into the public welfare fund of the state treasury may be expended for the following purposes:

(a) For old age assistance, the sum of one million four hundred twenty-five thousand dollars $1,425,000.00

(b) For aid to dependent children, the sum of eight hundred forty-five thousand dollars ....$ 845,000.00

(c) For aid to needy blind, the sum of two hundred one thousand dollars ....$ 201,000.00

(d) For aid to the permanently and totally disabled, the sum of one hundred ninety-five thousand five hundred dollars ....$ 195,500.00

(e) For child welfare services, including all state administrative costs, the sum of fifty-seven thousand five hundred dollars ....$ 57,500.00

(f) For the payment of board and room for dependent and neglected children in approved family foster homes in cases where the county of residence of such children pays one half of such cost, the sum of seventy-five thousand dollars ....$ 75,000.00

(g) For general relief and contingencies, the sum of five hundred fifty thousand dollars ....$ 550,000.00

(h) For payment to persons having silicosis, pursuant to provisions of section 71-1001 to 71-1008 inclusive, Revised Codes of Montana, 1947, as amended, and for medical examinations, transportation and other related services, the sum of six hundred nine thousand five hundred dollars ....$ 609,500.00

(i) For employer's contribution to the public employees' retirement system and social security, the sum of twenty-six thousand dollars ....$ 26,000.00

(j) For administrative costs of the state department not otherwise provided for including advances of the compensation and expenses of the personnel staff attached to county welfare boards the sum of two hundred fifty thousand dollars ....$ 250,000.00

Section 5. In addition to the foregoing appropriations, there is hereby appropriated for both of the two (2) fiscal years, all balances of prior appropriations unexpended on June 30, 1959, and all funds which may be received from counties as reimbursements for the purposes for which they are designated and any other funds which may be received by the state department of public welfare.

Section 6. Any money hereby appropriated for the state department of public welfare and specified for any account or purpose and not needed for such account or purpose, may be transferred by the state board of public welfare to any other account or purpose under the authority of the department, except that no part of any items shall be transferred to administrative costs.

Section 7. The appropriation hereby provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 14, 1959.

HOUSE BILL NO. 539

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for Certain State Departments, Boards, Bureaus and Commissions, for the Period Beginning July 1, 1959, and Ending June 30, 1961.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. No part of this appropriation shall be used to pay any salary in excess of that which may be specifically fixed by law. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one (1) month, the payment of which is hereby made a proper charge from funds appropriated for "operation."

(2) The term "capital," unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term "capital" mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term "repairs" means the amount to be paid for the repair of any capital asset, including buildings or lands.

(4) The term "replacements" means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original being worn out or broken.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau or commission to which the appropriation applies, including wages

of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expenses, including salaries, capital, repairs and replacements and operations, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) The term "public employees' retirement system" means the state contributions to the public employees' retirement system and said money is to be used for that purpose and no other.

(9) The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than twenty (20) days after the close of the fiscal year. Supplies purchased for a succeeding year are in violation of this act. In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balances at the end of the second year, except amounts encumbered by purchase order or obligated claims and not billed prior to the above date shall revert to the funds from which they were appropriated.

(10) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

(11) The term "social security" means the state contributions to the social security fund and said money is to be used for that purpose and no other.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1959, and ending June 30, 1960.

BUREAU OF VOCATIONAL REHABILITATION

FROM THE GENERAL FUND

For salaries and expenses, ninety thousand dollars....$	90,000.00

In addition thereto, there is hereby appropriated all monies received from the federal government for vocational rehabilitation.

POULTRY IMPROVEMENT BOARD

FROM THE GENERAL FUND

Salary, head of department, six thousand dollars	$	6,000.00
Salaries, other employees, seven thousand two hundred dollars	$	7,200.00
Operation, three thousand two hundred fourteen dollars	$	3,214.00
Capital outlay, one thousand seven hundred seventy-five dollars	$	1,775.00
Public employees' retirement system and social security, eight hundred one dollars	$	801.00

FROM THE POULTRY IMPROVEMENT BOARD FUND

As much as may be necessary to pay all lawful claims as provided by law.

STATE EXAMINER

FROM THE GENERAL FUND

Salary, head of department, seven thousand five hundred dollars	$	7,500.00
Salaries, other employees, one hundred eight thousand two hundred twenty dollars	$	108,220.00
Operation, forty-one thousand seven hundred forty dollars	$	41,740.00
Repairs and replacements, seven hundred fifty dollars	$	750.00
Capital outlay, one thousand five hundred dollars	$	1,500.00
Public employees' retirement system and social security, five thousand seven hundred ninety dollars	$	5,790.00
Permanent revolving fund, one thousand dollars	$	1,000.00

STATE FORESTER
ADMINISTRATION

FROM THE GENERAL FUND

Salaries and wages, sixty-seven thousand four hundred sixty dollars	$	67,460.00
Operation, twenty-five thousand dollars	$	25,000.00
Capital outlay, two thousand dollars	$	2,000.00
Repairs and replacement, six hundred dollars	$	600.00
Public employees' retirement system and social security, seven thousand dollars	$	7,000.00

PROTECTION OF STATE LANDS

FROM THE GENERAL FUND

Salaries and wages, twenty-six thousand dollars	$ 26,000.00
Operation, thirty-two thousand dollars	$ 32,000.00
Capital outlay, two thousand dollars	$ 2,000.00
Repairs and replacements, one thousand five hundred dollars	$ 1,500.00
Social security, four hundred eighty-five dollars	$ 485.00
Insect control, two thousand dollars	$ 2,000.00
Inventory of forest resources, twelve thousand dollars	$ 12,000.00

TIMBER SALES

FROM THE GENERAL FUND

Salaries and wages, forty-eight thousand two hundred eighty dollars	$ 48,280.00
Operation, two thousand seventy-five dollars	$ 2,075.00
Capital outlay, three thousand dollars	$ 3,000.00
Social security, one thousand one hundred dollars	$ 1,100.00
Residence at Swan River State Forest, twelve thousand dollars	$ 12,000.00

In addition to the above appropriations there is hereby appropriated all moneys received from the federal government or trust, to be used for the purposes for which they were provided.

BOARD OF FORESTRY

FROM THE GENERAL FUND

Salaries and wages, one thousand one hundred dollars	$ 1,100.00
Operation, three hundred thirty-five dollars	$ 335.00
Public employees' retirement system and social security, sixty-five dollars	$ 65.00

RURAL FIRE FIGHTERS' SERVICE

FROM THE GENERAL FUND

Salaries and wages, five thousand two hundred eighty dollars	$ 5,280.00
Operation, two thousand two hundred dollars	$ 2,200.00
Capital outlay, one hundred dollars	$ 100.00
Public employees' retirement system and social security, three hundred twenty dollars	$ 320.00

FROM THE KEEP MONTANA GREEN FUND

As much as may be necessary to pay all lawful claims, as provided by law.

CO-ORDINATOR OF INDIAN AFFAIRS

FROM THE GENERAL FUND

Salaries and wages, three thousand five hundred forty dollars ....$	3,540.00
Maintenance and operation, one thousand five hundred ten dollars ....$	1,510.00
Capital outlay, one hundred sixty dollars ....$	160.00
Public employees' retirement system and social security, one hundred ninety-five dollars ....$	195.00

SOIL CONSERVATION COMMITTEE

FROM THE GENERAL FUND

Salary, head of department, six thousand dollars......$	6,000.00
Salaries, other employees, one thousand five hundred dollars ....$	1,500.00
Operation, four thousand two hundred dollars..........$	4,200.00
Public employees' retirement system and social security, four hundred forty dollars ....$	440.00

MILK CONTROL BOARD

FROM THE GENERAL FUND

Salary, head of department, six thousand dollars....$	6,000.00
Salaries, other employees, nineteen thousand three hundred dollars ....$	19,300.00
Operation, twenty-three thousand four hundred fifteen dollars ....$	23,415.00
Capital outlay, repairs and replacements, two thousand five hundred fifty dollars ....$	2,550.00
Public employees' retirement system and social security, one thousand five hundred forty-eight dollars....$	1,548.00

In the event that House Bill No. 27 of the Thirty-sixth Legislative Assembly becomes law, the entire appropriation for the Milk Control Board shall revert to the general fund, and a sum is hereby appropriated from the milk control fund equal to the amount of administrative assessments collected as set forth in section 27-409, Revised Codes of Montana, 1947, as amended under the session laws of the Thirty-sixth Legislative Assembly, 1959.

DEPARTMENT OF LABOR AND INDUSTRY

FROM THE GENERAL FUND

Salary, head of department, six thousand dollars.........$	6,000.00
Salaries, other employees, four thousand dollars.........$	4,000.00
Operation, two thousand five hundred thirty-five dollars ....$	2,535.00
Repairs and replacements, one thousand nine hundred dollars ....$	1,900.00
Public employees' retirement system and social security, five hundred ninety-five dollars ....$	595.00
Printing of labor laws, one thousand dollars ....$	1,000.00

HIGHWAY PATROL, DRIVERS' EXAMINATION SECTION, AND MOTOR VEHICLE SAFETY-RESPONSIBILITY

FROM THE GENERAL FUND

For salary of supervisor, seven thousand dollars....$	7,000.00
Salaries, other employees, six hundred seventy-four thousand three hundred thirty-one dollars and ninety-seven cents ....$	674,331.97
Salaries, office employees, one hundred forty-three thousand four hundred thirty dollars ....$	143,430.00
For rent on department and division headquarters, fifteen thousand seven hundred eighty dollars ....$	15,780.00
Operation, five hundred seventeen thousand three hundred thirty-one dollars and forty-four cents ....$	517,331.44
For board of prisoners, alcohol analysis and miscellaneous expenses, fifty thousand dollars ....$	50,000.00

OIL AND GAS CONSERVATION COMMISSION

FROM THE OIL AND GAS CONSERVATION FUND

As much as may be necessary to pay all lawful claims, as provided by law

REGISTRAR OF MOTOR VEHICLES

FROM THE MOTOR VEHICLE RECORDING FUND

For salaries and expenses, as much thereof as may be necessary to pay all lawful claims as provided by law.

ATHLETIC COMMISSION

FROM THE VETERANS' MEMORIAL FUND

For salaries and expenses, as much as may be necessary to pay all lawful claims as provided by law.

STATE AERONAUTICS' COMMISSION

FROM THE STATE AVIATION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

REGULATORY BOARDS

All regulatory boards for which the law provides for collection of fees and such fees are deposited with the state treasurer, as trust funds, are hereby appropriated for the use of each of the said boards, a sum equal to the amount of their collections, except wherein the law provides for deductions.

ADJUSTED COMPENSATION DIVISION

FROM THE VETERANS' COMPENSATION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SOCIAL SECURITY DIVISION

FROM THE SOCIAL SECURITY DIVISION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

STATE PARKS DIVISION

FROM THE GENERAL FUND

Salary, head of department, seven thousand five hundred dollars ....$	7,500.00
Capital outlay for park sites, ten thousand dollars....$	10,000.00
Maintenance and operation, six thousand dollars......$	6,000.00
Repairs and replacements, two thousand five hundred dollars ....$	2,500.00

Park improvements, thirty-four thousand dollars....$	34,000.00
Public employees' retirement system and social security, one thousand three hundred fifty dollars..........$	1,350.00

FROM THE STATE PARKS' FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE CONCESSIONERS' FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE CANYON FERRY PARK FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE TIBER RESERVOIR FUND

As much as may be necessary to pay all lawful claims, as provided by law.

STATE HIGHWAY COMMISSION

FROM THE HIGHWAY FUND

There is hereby appropriated out of the state highway fund all revenue for expenditures by the state highway commission as provided by law; provided that the total cost to the state for administration of the federal aid work prescribed by law shall not exceed for any fiscal year six per cent (6%) of the total of state and federal aid and other available funds expended under the supervision of the state highway commission as provided by initiative measure No. 31 and acts supplementary or amendatory thereto; provided further that the state treasurer is hereby required to transfer from the state highway fund to the state highway trust fund from time to time upon the request of the highway commission, subject to approval of the state board of examiners, such parts of the money hereby appropriated as is necessary to match federal aid for construction and for reconstruction purposes, and when so transferred, said monies may be expended and drawn from the said state highway trust fund in the manner as other monies in said funds are expended. A detailed accounting of all administrative expenses shall be furnished to the legislature within the first ten (10) days of each legislative session by the highway department.

In addition thereto, there is hereby appropriated all federal funds that may be made available for the highway purposes.

FISH AND GAME COMMISSION

FROM THE FISH AND GAME FUND

As much as may be necessary to pay all lawful claims, as provided by law.

In addition thereto, there is hereby appropriated all federal funds which may be received for the use of the fish and game commission.

UNEMPLOYMENT COMPENSATION COMMISSION

FROM THE GENERAL FUND

For the administrative salaries and expenses and for implementing the purpose of section 11-B of the Montana unemployment compensation law in opposing federalization, one thousand dollars ....$	1,000.00

FROM THE UNEMPLOYMENT COMPENSATION BENEFIT FUND

As much thereof as may be necessary to comply with the provisions of the law.

FROM THE MONTANA CASH SICK AND DISABILITY FUND

So much thereof as may be necessary to comply with the provisions of the law.

FROM THE JOINT MERIT SYSTEM FUND

So much thereof as may be necessary to comply with the provisions of the law.

BOARD OF EXAMINERS FOR COAL MINE INSPECTORS

FROM THE GENERAL FUND

Salaries and expenses, three hundred dollars...........$	300.00

INDUSTRIAL ACCIDENT BOARD

FROM THE INDUSTRIAL ACCIDENT ADMINISTRATIVE FUND

There is hereby appropriated all fees and collections accruing to the industrial accident administrative fund for salaries and expenses, as may be necessary to

carry out the provisions of this act; not exceeding the sum of three hundred seventy-nine thousand three hundred sixty dollars and fifty cents $	379,360.50

FROM THE INDUSTRIAL ACCIDENT FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

FROM THE INDUSTRIAL ACCIDENT SECOND INJURY FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

FROM THE VOLUNTEER FIREMEN'S COMPENSATION FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

DEPARTMENT OF AGRICULTURE
ADMINISTRATION

FROM THE GENERAL FUND

Salary, head of department, seven thousand five hundred dollars $	7,500.00
Salaries, other employees, eighteen thousand eight hundred dollars $	18,800.00
Operation, eleven thousand dollars $	11,000.00
Capital outlay, repairs and replacements, one thousand dollars $	1,000.00
Public employees' retirement system and social security, twelve thousand seven hundred fifty dollars $	12,750.00

DAIRY DIVISION

FROM THE GENERAL FUND

Salaries and wages, thirty-two thousand two hundred fifty dollars $	32,250.00
Operation, twelve thousand seven hundred dollars $	12,700.00
Capital outlay, repairs and replacements, five hundred dollars $	500.00
Social security, eight hundred twenty-five dollars $	825.00

RUST CONTROL DIVISION

FROM THE GENERAL FUND

Salaries and expenses, one thousand eight hundred dollars	$	1,800.00

GRAIN STANDARDS AND MARKETING DIVISION

FROM THE GRAIN SERVICES REVOLVING FUND

There is hereby appropriated as much as may be necessary to pay all lawful claims, as provided by law.

HORTICULTURE DIVISION

FROM THE GENERAL FUND

Salaries and wages, one hundred eight thousand six hundred twenty dollars	$	108,620.00
Operation, thirty thousand six hundred eighty dollars	$	30,680.00
Capital outlay, repairs and replacements, four hundred dollars	$	400.00
Social security, two thousand seven hundred twenty-five dollars	$	2,725.00

FROM THE HIGHWAY FUND

Maintenance and operation, six thousand three hundred dollars	$	6,300.00

WEIGHTS AND MEASURES' DIVISION

FROM THE GENERAL FUND

Salaries and wages, thirty-eight thousand two hundred fifty dollars	$	38,250.00
Operation, twenty-five thousand dollars	$	25,000.00
Capital outlay, repairs and replacements, thirty thousand three hundred ten dollars	$	30,310.00
Social security, nine hundred seventy dollars	$	970.00

SPECIAL REVOLVING FUND

All monies collected by the weights and measures division for special inspections in testing or retesting of weights and measures shall be credited to a special fund which fund shall be used to defray the expenses of such inspections.

PAINT INSPECTION DIVISION

FROM THE GENERAL FUND

Operations ....$ 500.00

AGRICULTURAL STATISTICS' DIVISION

FROM THE GENERAL FUND

Salaries and expenses, eleven thousand seven hundred dollars ....$ 11,700.00

REAL ESTATE DIVISION

FROM THE GENERAL FUND

Salaries and expenses, eighteen thousand dollars......$ 18,000.00

COMMERCIAL FERTILIZER DIVISION

FROM THE COMMERCIAL FERTILIZER FUND

As much as may be necessary to carry out the provisions of the law under which this fund was established.

COMMERCIAL FEED DIVISION

FROM THE COMMERCIAL FEED FUND

As much as may be necessary to carry out the provisions of the law under which this fund was established.

STATE ENTOMOLOGIST
ADMINISTRATION

FROM THE GENERAL FUND

Salaries and wages, nine thousand three hundred twenty-five dollars ....$ 9,325.00

Operation, three thousand five hundred eighty-seven dollars ....$ 3,587.00

Capital outlay, repairs and replacements, three hundred seventy dollars ....$ 370.00

Public employees' retirement system and social security, four hundred seventy-nine dollars and one cent..$ 479.01

APICULTURE DIVISION

FROM THE GENERAL FUND

Salaries and wages, eight thousand eight hundred twenty-five dollars	$	8,825.00
Operation, one thousand two hundred five dollars	$	1,205.00
Capital outlay, repairs and replacements, one hundred dollars	$	100.00
Public employees' retirement system and social security, four hundred fifty-seven dollars and twenty-six cents	$	457.26

RANGE CONTROL INVESTIGATIONS

FROM THE GENERAL FUND

Salaries and wages, two thousand dollars	$	2,000.00
Operation, two thousand one hundred twenty dollars	$	2,120.00
Capital outlay, repairs and replacements, one hundred dollars	$	100.00
Public employees' retirement system and social security, one hundred fifty-one dollars and twenty-five cents	$	151.25

LIVESTOCK SANITARY BOARD

FROM THE GENERAL FUND

Salary, head of department, ten thousand dollars	$	10,000.00
Salaries and expenses, one hundred fifty-four thousand twenty-five dollars	$	154,025.00
Public employees' retirement system and social security, thirteen thousand five hundred dollars	$	13,500.00

FROM THE LIVESTOCK SANITARY BOARD FUND

For the payment of slaughtered stock as provided by law, and for salaries and expenses of the livestock sanitary board, such sums as may be available are hereby appropriated.

FROM THE LIVESTOCK SANITARY BOARD EMERGENCY FUND

For the payment of emergencies arising out of the operation of the livestock sanitary board, as much as may be required when such emergency is declared to exist as provided in section 84-5211 Revised Codes of Montana, 1947.

POULTRY DISEASE CONTROL DIVISION

FROM THE GENERAL FUND

Salaries and expenses, twelve thousand eight hundred seventy-five dollars ....$	12,875.00

BRUCELLOSIS CONTROL DIVISION

FROM THE GENERAL FUND

Salaries and expenses, twenty-five thousand dollars..$	25,000.00

SLAUGHTER INSPECTION DIVISION

FROM THE GENERAL FUND

Salaries and expenses, five thousand dollars ....$	5,000.00

Section 3. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1960, and ending June 30, 1961.

BUREAU OF VOCATIONAL REHABILITATION

FROM THE GENERAL FUND

For salaries and expenses, ninety thousand dollars....$	90,000.00

In addition thereto, there is hereby appropriated all monies received from the federal government for vocational rehabilitation.

POULTRY IMPROVEMENT BOARD

FROM THE GENERAL FUND

Salary, head of department, six thousand dollars......$	6,000.00
Salaries, other employees, seven thousand six hundred seventy dollars ....$	7,670.00
Operation, three thousand two hundred fourteen dollars ....$	3,214.00
Capital outlay, seventy-five dollars ....$	75.00

Repairs and replacements, one thousand two hundred dollars	$	1,200.00
Public employees' retirement system and social security, eight hundred fifty-eight dollars	$	858.00

FROM THE POULTRY IMPROVEMENT BOARD FUND

As much as may be necessary to pay all lawful claims as provided by law.

STATE EXAMINER

FROM THE GENERAL FUND

Salary, head of department, seven thousand five hundred dollars	$	7,500.00
Salaries, other employees, one hundred eight thousand two hundred twenty dollars	$	108,220.00
Operation, forty-one thousand seven hundred forty dollars	$	41,740.00
Repairs and replacements, seven hundred fifty dollars	$	750.00
Capital outlay, one thousand five hundred dollars	$	1,500.00
Public employees' retirement system and social security, five thousand seven hundred ninety dollars	$	5,790.00
Examination of university units, twenty thousand dollars	$	20,000.00

STATE FORESTER
ADMINISTRATION

FROM THE GENERAL FUND

Salaries and wages, sixty-seven thousand four hundred sixty dollars	$	67,460.00
Operation, twenty-seven thousand dollars	$	27,000.00
Capital outlay, two thousand dollars	$	2,000.00
Repairs and replacement, six hundred dollars	$	600.00
Public employees' retirement system and social security, seven thousand dollars	$	7,000.00

PROTECTION OF STATE LANDS

FROM THE GENERAL FUND

Salaries and wages, twenty-six thousand dollars	$	26,000.00
Operation, thirty-two thousand dollars	$	32,000.00
Capital outlay, three thousand dollars	$	3,000.00
Repairs and replacements, two thousand dollars	$	2,000.00
Social security, four hundred eighty-five dollars	$	485.00
Inventory of forest resources, twelve thousand dollars	$	12,000.00

TIMBER SALES

FROM THE GENERAL FUND

Salaries and wages, forty-eight thousand two hundred eighty dollars	$	48,280.00
Operation, two thousand five hundred seventy-five dollars	$	2,575.00
Capital outlay, one thousand dollars	$	1,000.00
Social security, one thousand one hundred dollars	$	1,100.00

In addition to the above appropriations there is hereby appropriated all moneys received from the federal government or trust, to be used for the purposes for which they were provided.

BOARD OF FORESTRY

FROM THE GENERAL FUND

Salaries and wages, one thousand one hundred dollars	$	1,100.00
Operation, three hundred thirty-five dollars	$	335.00
Public employees' retirement system and social security, seventy dollars	$	70.00

RURAL FIRE FIGHTERS' SERVICE

FROM THE GENERAL FUND

Salaries and wages, five thousand two hundred eighty dollars	$	5,280.00
Operation, two thousand two hundred dollars	$	2,200.00
Capital outlay, one hundred dollars	$	100.00
Public employees' retirement system and social security, three hundred twenty dollars	$	320.00

FROM THE KEEP MONTANA GREEN FUND

As much as may be necessary to pay all lawful claims, as provided by law.

CO-ORDINATOR OF INDIAN AFFAIRS

FROM THE GENERAL FUND

Salaries and wages, three thousand five hundred forty dollars $	3,540.00
Maintenance and operation, one thousand five hundred ten dollars $	1,510.00
Capital outlay, three hundred dollars $	300.00
Public employees' retirement system and social security, one hundred ninety-five dollars $	195.00

SOIL CONSERVATION COMMITTEE

FROM THE GENERAL FUND

Salary, head of department, six thousand dollars $	6,000.00
Salaries, other employees, one thousand five hundred dollars $	1,500.00
Operation, four thousand two hundred dollars $	4,200.00
Public employees' retirement system and social security, four hundred fifty-seven dollars $	457.00

MILK CONTROL BOARD

FROM THE GENERAL FUND

Salary, head of department, six thousand dollars $	6,000.00
Salaries, other employees, nineteen thousand three hundred dollars $	19,300.00
Operation, twenty-three thousand two hundred fifteen dollars $	23,215.00
Public employees' retirement system and social security, one thousand six hundred fifteen dollars $	1,615.00

In the event that House Bill No. 27 of the Thirty-sixth Legislative Assembly becomes law, the entire appropriation for the Milk Control Board shall revert to the general fund, and a sum is hereby appropriated from the milk control fund equal to the amount of administrative assessments collected as set forth in section 27-409, Revised Codes of Montana, 1947, as amended under the session laws of the Thirty-sixth Legislative Assembly, 1959.

DEPARTMENT OF LABOR AND INDUSTRY

FROM THE GENERAL FUND

Salary, head of department, six thousand dollars	$	6,000.00
Salaries, other employees, four thousand dollars	$	4,000.00
Operation, two thousand five hundred sixty dollars	$	2,560.00
Repairs and replacements, one hundred dollars	$	100.00
Public employees' retirement system and social security, six hundred seventeen dollars	$	617.00

HIGHWAY PATROL, DRIVERS' EXAMINATION SECTION, AND MOTOR VEHICLE SAFETY-RESPONSIBILITY

FROM THE GENERAL FUND

For salary of supervisor, seven thousand dollars	$	7,000.00
Salaries, other employees, six hundred eighty-one thousand four hundred twenty-four dollars and ninety-three cents	$	681,424.93
Salaries, office employees, one hundred forty-eight thousand seven hundred ten dollars	$	148,710.00
For rent on department and division headquarters, fifteen thousand seven hundred eighty dollars	$	15,780.00
Operation, four hundred ninety-five thousand two hundred thirty-two dollars and seventy-nine cents	$	495,232.79
For board of prisoners, alcohol analysis and miscellaneous expenses, fifty thousand dollars	$	50,000.00

OIL AND GAS CONSERVATION COMMISSION

FROM THE OIL AND GAS CONSERVATION FUND

As much as may be necessary to pay all lawful claims, as provided by law

REGISTRAR OF MOTOR VEHICLES

FROM THE MOTOR VEHICLE RECORDING FUND

For salaries and expenses, as much thereof as may be necessary to pay all lawful claims as provided by law.

ATHLETIC COMMISSION

FROM THE VETERANS' MEMORIAL FUND

For salaries and expenses, as much thereof as may be necessary to pay all lawful claims as provided by law.

STATE AERONAUTICS' COMMISSION

FROM THE STATE AVIATION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

REGULATORY BOARDS

All regulatory boards for which the law provides for collection of fees and such fees are deposited with the state treasurer, as trust funds, are hereby appropriated for the use of each of the said boards, a sum equal to the amount of their collections, except wherein the law provides for deductions.

ADJUSTED COMPENSATION DIVISION

FROM THE VETERANS' COMPENSATION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SOCIAL SECURITY DIVISION

FROM THE SOCIAL SECURITY DIVISION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

STATE PARKS DIVISION

FROM THE GENERAL FUND

Salary, head of department, seven thousand five hundred dollars ....$	7,500.00
Capital outlay for park sites, ten thousand dollars....$	10,000.00
Maintenance and operation, six thousand dollars......$	6,000.00

Repairs and replacements, two thousand five hundred dollars ....$	2,500.00
Park improvements, thirty-four thousand dollars....$	34,000.00
Public employees' retirement system and social security, one thousand three hundred fifty dollars..........$	1,350.00

FROM THE STATE PARKS' FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE CONCESSIONERS' FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE CANYON FERRY PARK FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE TIBER RESERVOIR FUND

As much as may be necessary to pay all lawful claims, as provided by law.

STATE HIGHWAY COMMISSION

FROM THE HIGHWAY FUND

There is hereby appropriated out of the state highway fund all revenue for expenditures by the state highway commission as provided by law; provided that the total cost to the state for administration of the federal aid work prescribed by law shall not exceed for any fiscal year six per cent (6%) of the total of state and federal aid and other available funds expended under the supervision of the state highway commission as provided by initiative measure No. 31 and acts supplementary or amendatory thereto; provided further that the state treasurer is hereby required to transfer from the state highway fund to the state highway trust fund from time to time upon the request of the highway commission, subject to approval of the state board of examiners, such parts of the money hereby appropriated as is necessary to match federal aid for construction and for reconstruction purposes, and when so transferred, said monies may be expended and drawn from the said state highway trust fund in the manner as other monies in said funds are expended. A detailed accounting of all administrative expenses shall be furnished to the legislature within the first ten (10) days of each legislative session by the highway department.

In addition thereto, there is hereby appropriated all federal funds that may be made available for the highway purposes.

FISH AND GAME COMMISSION

FROM THE FISH AND GAME FUND

As much as may be necessary to pay all lawful claims, as provided by law.

In addition thereto, there is hereby appropriated all federal funds which may be received for the use of the fish and game commission.

UNEMPLOYMENT COMPENSATION COMMISSION

FROM THE GENERAL FUND

For administrative salaries and expenses and for implementing the purpose of section 11-B of the Montana unemployment compensation law in opposing federalization, one thousand dollars ....$	1,000.00

FROM THE UNEMPLOYMENT COMPENSATION BENEFIT FUND

As much thereof as may be necessary to comply with the provisions of the law.

FROM THE MONTANA CASH SICK AND DISABILITY FUND

So much thereof as may be necessary to comply with the provisions of the law.

FROM THE JOINT MERIT SYSTEM FUND

So much thereof as may be necessary to comply with the provisions of the law.

BOARD OF EXAMINERS FOR COAL MINE INSPECTORS

FROM THE GENERAL FUND

Salaries and expenses, three hundred dollars..........$	300.00

INDUSTRIAL ACCIDENT BOARD

FROM THE INDUSTRIAL ACCIDENT ADMINISTRATIVE FUND

There is hereby appropriated all fees and collections accruing to the industrial accident administrative fund for salaries and expenses, as may be necessary to carry out the provisions of this act; not exceeding the sum of three hundred seventy thousand three hundred sixty dollars and fifty cents ....$ 370,360.50

FROM THE INDUSTRIAL ACCIDENT FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

FROM THE INDUSTRIAL ACCIDENT SECOND INJURY FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

FROM THE VOLUNTEER FIREMEN'S COMPENSATION FUND

So much thereof as may be necessary to pay all lawful claims, as provided by law.

DEPARTMENT OF AGRICULTURE ADMINISTRATION

FROM THE GENERAL FUND

Salary, head of department, seven thousand five hundred dollars ....$ 7,500.00

Salaries, other employees, eighteen thousand eight hundred dollars ....$ 18,800.00

Operation, eleven thousand dollars ....$ 11,000.00

Capital outlay, repairs and replacements, one thousand dollars ....$ 1,000.00

Public employees' retirement system and social security, twelve thousand seven hundred fifty dollars....$ 12,750.00

DAIRY DIVISION

FROM THE GENERAL FUND

Salaries and wages, thirty-two thousand two hundred fifty dollars ....$ 32,250.00

Operation, twelve thousand seven hundred dollars....$ 12,700.00

Capital outlay, repairs and replacements, five hundred dollars ....$ 500.00

Social security, eight hundred twenty-five dollars....$ 825.00

RUST CONTROL DIVISION

FROM THE GENERAL FUND

Salaries and expenses, one thousand eight hundred dollars ....$ 1,800.00

GRAIN STANDARDS AND MARKETING DIVISION

FROM THE GRAIN SERVICES REVOLVING FUND

There is hereby appropriated as much as may be necessary to pay all lawful claims, as provided by law.

HORTICULTURE DIVISION

FROM THE GENERAL FUND

Salaries and wages, one hundred eight thousand six hundred twenty dollars ....$ 108,620.00

Operation, thirty thousand six hundred eighty dollars ....$ 30,680.00

Capital outlay, repairs and replacements, four hundred dollars ....$ 400.00

Social security, two thousand seven hundred twenty-five dollars ....$ 2,725.00

FROM THE HIGHWAY FUND

Maintenance and operation, six thousand three hundred dollars ....$ 6,300.00

WEIGHTS AND MEASURES' DIVISION

FROM THE GENERAL FUND

Salaries and wages, thirty-eight thousand two hundred fifty dollars ....$ 38,250.00

Operation, twenty-five thousand dollars ....$ 25,000.00

Capital outlay, repairs and replacements, five thousand three hundred eighty dollars ....$ 5,380.00

Social security, nine hundred seventy dollars..............$ 970.00

SPECIAL REVOLVING FUND

All monies collected by the weights and measures division for special inspection in testing or retesting of weights and measures shall be credited to a special fund which fund shall be used to defray the expenses of such inspection.

AGRICULTURAL STATISTICS' DIVISION

FROM THE GENERAL FUND

Salaries and expenses, fourteen thousand nine hundred dollars	$	14,900.00

REAL ESTATE DIVISION

FROM THE GENERAL FUND

Salaries and expenses, eighteen thousand dollars	$	18,000.00

COMMERCIAL FERTILIZER DIVISION

FROM THE COMMERCIAL FERTILIZER FUND

As much as may be necessary to carry out the provisions of the law under which this fund was established.

COMMERCIAL FEED DIVISION

FROM THE COMMERCIAL FEED FUND

As much as may be necessary to carry out the provisions of the law under which this fund was established.

STATE ENTOMOLOGIST

ADMINISTRATION

FROM THE GENERAL FUND

Salaries and wages, nine thousand three hundred twenty-five dollars	$	9,325.00
Operation, three thousand five hundred seven dollars	$	3,507.00
Capital outlay, repairs and replacements, three hundred seventy dollars	$	370.00
Public employees' retirement system and social security, five hundred one dollars and sixty-six cents	$	501.66

APICULTURE DIVISION

FROM THE GENERAL FUND

Salaries and wages, eight thousand eight hundred twenty-five dollars	$	8,825.00

Operation, one thousand two hundred five dollars	$	1,205.00
Capital outlay, repairs and replacements, one hundred dollars	$	100.00
Public employees' retirement system and social security, four hundred seventy-nine dollars and sixty-eight cents	$	479.68

RANGE CONTROL INVESTIGATIONS

FROM THE GENERAL FUND

Salaries and wages, two thousand dollars	$	2,000.00
Operation, two thousand one hundred twenty dollars	$	2,120.00
Capital outlay, repairs and replacements, one hundred dollars	$	100.00
Public employees' retirement system and social security, one hundred fifty-one dollars and twenty-five cents	$	151.25

LIVESTOCK SANITARY BOARD

FROM THE GENERAL FUND

Salary, head of department, ten thousand dollars	$	10,000.00
Salaries and expenses, one hundred fifty-four thousand twenty-five dollars	$	154,025.00
Public employees' retirement system and social security, thirteen thousand five hundred dollars	$	13,500.00

FROM THE LIVESTOCK SANITARY BOARD FUND

For the payment of slaughtered stock as provided by law, and for salaries and expenses of the livestock sanitary board, such sums as may be available are hereby appropriated.

FROM THE LIVESTOCK SANITARY BOARD EMERGENCY FUND

For the payment of emergencies arising out of the operation of the livestock sanitary board, as much as may be required when such emergency is declared to exist as provided in section 84-5211 Revised Codes of Montana, 1947.

POULTRY DISEASE CONTROL DIVISION

FROM THE GENERAL FUND

Salaries and expenses, twelve thousand eight hundred seventy-five dollars ....$	12,875.00

BRUCELLOSIS CONTROL DIVISION

FROM THE GENERAL FUND

Salaries and expenses, twenty-five thousand dollars..$	25,000.00

SLAUGHTER INSPECTION DIVISION

FROM THE GENERAL FUND

Salaries and expenses, seventy thousand dollars......$	70,000.00

Section 4. Provided further, that all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in section 1 of this act shall govern all appropriations.

Section 5. It is further provided that wherein departments or institutions have appropriations from sources other than the general fund or university millage fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used when available before using the appropriations from the general fund or university millage fund; provided, however, that such restrictions shall not apply to monies from special tax on livestock, or to special fees collected on livestock or from livestock owners as provided by law.

Section 6. The appropriations herein provided for shall be held valid notwithstanding the provisions of the budget act.

Approved March 14, 1959.

HOUSE BILL NO. 540

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for Certain State Departments, Boards, Bureaus and Commissions, for the Period Beginning July 1, 1959, and Ending June 30, 1961.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term ''salaries'' means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. No part of this appropriation shall be used to pay any salary in excess of that which may be specifically fixed by law. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one (1) month, the payment of which is hereby made a proper charge from funds appropriated for ''operation.''

(2) The term ''capital,'' unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term "capital'' mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term ''repairs'' means the amount to be paid for the repair of any capital asset, including buildings or lands.

(4) The term ''replacement'' means the amount to be paid for the replacing of any capital asset as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original being worn out or broken.

(5) The term ''operation'' means all other expenditures which are necessary for the operation of the department, board, bureau or commission to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term ''salaries and expenses'' means any expenses, including salaries, capital, repairs and replacements and operations, as defined above.

(7) The term ''expense'' means any expense defined above, with the exception of salaries.

(8) The term ''public employees' retirement system'' means the state contributions to the public employees' retirement system and said money is to be used for that purpose and no other.

(9) The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than twenty (20) days after the close of the fiscal year. Supplies purchased for a succeeding year are in violation of this act. In cases of necessity, appropriations may be used for either year, provided, however, that any

unexpended balances at the end of the second year, except amounts encumbered by purchase order or obligated claims and not billed prior to the above date shall revert to the funds from which they were appropriated.

(10) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

(11) The term "social security" means the state contributions to the social security fund and said money is to be used for that purpose and no other.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1959, and ending June 30, 1960.

APPRENTICESHIP COUNCIL

FROM THE GENERAL FUND

Salaries and wages, twenty thousand one hundred forty dollars ....$	20,140.00
Operation, eight thousand one hundred seventy dollars ....$	8,170.00
Repairs and replacements, three hundred twenty-two dollars ....$	322.00
Capital outlay, two hundred seventy-eight dollars......$	278.00
Public employees' retirement system and social security, one thousand three hundred ten dollars.............$	1,310.00

CIVIL DEFENSE

FROM THE GENERAL FUND

Salary, head of department, six thousand six hundred dollars ....$	6,600.00
Salaries, other employees, three thousand dollars....$	3,000.00
Operation, ten thousand seven hundred fifty dollars..$	10,750.00
Public employees' retirement system and social security, six hundred fifty dollars ....$	650.00

FROM THE CIVIL DEFENSE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE DISASTER RELIEF FUND

As much as may be necessary to pay all lawful claims, as provided by law.

STATE CONTROLLER

FROM THE GENERAL FUND

Salary, head of department, seven thousand dollars..$	7,000.00
Salaries, other employees, seventy thousand five hundred seventy dollars ....$	70,570.00
Maintenance and operation, thirty thousand five hundred eighty dollars ....$	30,580.00
Repairs and replacements, one thousand two hundred thirty-five dollars ....$	1,235.00
Capital outlay, two hundred fifty dollars....$	250.00
Public employees' retirement system and social security, seven thousand four hundred dollars ....$	7,400.00

FROM THE MILLAGE FUND

Salaries and wages, ten thousand dollars ....$	10,000.00

FROM THE HIGHWAY FUND

Salaries and wages, twenty-two thousand five hundred dollars ....$	22,500.00

FROM THE FISH AND GAME FUND

Maintenance and operation, seven thousand five hundred dollars ....$	7,500.00

COMMODITY DISTRIBUTION DIVISION

FROM THE GENERAL FUND

Salaries and wages, fifteen thousand nine hundred sixty dollars ....$	15,960.00
Maintenance and operation, two thousand dollars....$	2,000.00

For revolving fund for surplus commodities to private agencies as designated by federal law, two thousand dollars ....$	2,000.00
Capital outlay, seven hundred dollars ....$	700.00
Repairs and replacements, four hundred dollars....$	400.00

FROM THE COMMODITY DISTRIBUTION FUND

As much as may be necessary to pay all lawful claims as provided by law.

STATE BOARD OF EQUALIZATION ADMINISTRATION

FROM THE GENERAL FUND

Salaries of the board members, twenty-one thousand dollars ....$	21,000.00
Salaries of others, seventy-three thousand eight hundred dollars ....$	73,800.00
Operation, eighteen thousand two hundred fifty dollars ....$	18,250.00
Capital outlay, five hundred dollars ....$	500.00
Repairs and replacements, four hundred fifty dollars..$	450.00
Public employees' retirement system and social security, five thousand four hundred ninety-eight dollars ....$	5,498.00

INCOME TAX DIVISION

FROM THE GENERAL FUND

Salaries, one hundred seventy-eight thousand five hundred sixty dollars ....$	178,560.00
Operation, forty-eight thousand nine hundred thirty-seven dollars and fifty cents ....$	48,937.50
Capital outlay, seventeen thousand eight hundred nine dollars ....$	17,809.00
Repairs and replacements, two thousand six hundred sixty-three dollars ....$	2,663.00
Public employees' retirement system and social security, ten thousand three hundred fifty-nine dollars....$	10,359.00

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Salaries, fifty-nine thousand five hundred twenty dollars	$ 59,520.00
Operation, sixteen thousand three hundred twelve dollars and fifty cents	$ 16,312.50
Capital outlay, five thousand nine hundred thirty-six dollars	$ 5,936.00
Repairs and replacements, eight hundred eighty-seven dollars	$ 887.00
Public employees' retirement system and social security, three thousand four hundred fifty-three dollars	$ 3,453.00

FROM THE INCOME TAX WITHHOLDING FUND

As much as may be necessary to pay all lawful claims, as provided by law.

CORPORATION LICENSE TAX DIVISION

FROM THE GENERAL FUND

Salaries, eighteen thousand dollars	$ 18,000.00
Operation, two thousand nine hundred sixty-two dollars and fifty cents	$ 2,962.50
Capital outlay, two hundred twenty-five dollars	$ 225.00
Repairs and replacements, one hundred twelve dollars and fifty cents	$ 112.50
Public employees' retirement system and social security, one thousand forty-four dollars	$ 1,044.00

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Salaries, six thousand dollars	$ 6,000.00
Operation, nine hundred eighty-seven dollars and fifty cents	$ 987.50
Capital outlay, seventy-five dollars	$ 75.00
Repairs and replacements, thirty-seven dollars and fifty cents	$ 37.50
Public employees' retirement system and social security, three hundred forty-eight dollars	$ 348.00

LICENSING DIVISION

FROM THE GENERAL FUND

Salaries, twelve thousand dollars .....$	12,000.00
Operation, two thousand seven hundred fifty dollars..$	2,750.00
Capital outlay, three hundred dollars .....$	300.00
Repairs and replacements, one hundred dollars.....$	100.00
Public employees' retirement system and social security, six hundred ninety-six dollars .....$	696.00

GASOLINE TAX REFUND AND TAX DIVISION

FROM THE HIGHWAY FUND

Salaries, ninety thousand one hundred twenty dollars .....$	90,120.00
Operation, thirty thousand three hundred fifty dollars .....$	30,350.00
Capital outlay, one thousand six hundred fifty dollars .....$	1,650.00
Repairs and replacements, one thousand fifty dollars .....$	1,050.00
Public employees' retirement system and social security, five thousand two hundred twenty-seven dollars .....$	5,227.00

FROM THE GASOLINE DRAWBACK FUND

For gasoline drawbacks, including refunds to the federal government, or as much as may be necessary to comply with the provisions of the law.

BOARD OF HEALTH

FROM THE GENERAL FUND

Salaries and expenses, two hundred seventy-three thousand five hundred dollars .....$	273,500.00
For cerebral palsy, fifty thousand dollars .....$	50,000.00
For stream pollution control and administration of federal sewage treatment construction grants, thirty thousand dollars .....$	30,000.00

For hospital facilities division for administering Hill Burton fund, thirty thousand dollars	$	30,000.00

In addition thereto, there is hereby appropriated any money that may be received from the federal government to be used as provided in the grants for the various departments and hereby reappropriate any unexpended state funds.

VETERANS' WELFARE COMMISSION

FROM THE GENERAL FUND

Salaries and wages, one hundred six thousand dollars	$	106,000.00
Operation, thirty-one thousand dollars	$	31,000.00
Repairs and replacements, five hundred dollars	$	500.00
Public employees' retirement system and social security, seven thousand five hundred dollars	$	7,500.00

TRANSPORTATION OF PRISONERS

FROM THE GENERAL FUND

For the purpose of paying the expense of transporting prisoners, twenty-five thousand dollars	$	25,000.00

DISTRICT JUDGES

FROM THE GENERAL FUND

For salaries, two hundred thirty-four thousand dollars	$	234,000.00
For travel, nineteen thousand dollars	$	19,000.00
For public employees' retirement system, industrial accident insurance, and social security, ten thousand four hundred twenty dollars	$	10,420.00

LAW LIBRARY

FROM THE GENERAL FUND

Salary, head of department, five thousand three hundred dollars	$	5,300.00
Salaries, other employees, three thousand dollars	$	3,000.00
Operation, six hundred ninety-two dollars	$	692.00
Capital outlay, fifty dollars	$	50.00

Legislative reference bureau, seventy-five dollars....$	75.00
Public employees' retirement system and social security, five hundred twenty-five dollars ....$	525.00

FROM THE LAW LIBRARY BOOK FUND

As much as may be necessary to pay all lawful claims, as provided by law.

STATE P B X DIVISION

FROM THE GENERAL FUND

Salaries and expenses, twenty-nine thousand five hundred dollars ....$	29,500.00

It is hereby provided that the State Highway Commission, Unemployment Compensation Commission, Fish and Game Commission, Liquor Control Board, Industrial Accident Board, Board of Education, Superintendent of Public Instruction, Oil and Gas Conservation Commission, Public Employees' Retirement System, Executive Secretary of the University of Montana, Social Security Division, Teachers' Retirement System, Adjusted Compensation Division, Board of Hail Insurance, Board of Examiners for Nurses, Board of Plumbing Examiners, Livestock Commission, Joint Merit System and State Aeronautics Commission shall pay their proportionate shares of the cost of operating the P B X Division, as determined by the state controller, to the state controller for deposit to the credit of the general fund of the State of Montana.

FROM THE STATE P B X FUND

As much as may be necessary to pay all lawful claims, as provided by law.

ADJUTANT GENERAL
ADMINISTRATION

FROM THE GENERAL FUND

Salaries and wages, eighty-four thousand nine hundred seventy-six dollars ....$	84,976.00
Operations, one hundred twenty-nine thousand one hundred dollars ....$	129,100.00
Repairs and replacements, fourteen thousand seven hundred dollars ....$	14,700.00
Capital outlay, five thousand five hundred dollars....$	5,500.00

Public employees' retirement system and social security, six thousand four hundred seventy-six dollars....$	6,476.00

ARMORIES DIVISION

FROM THE GENERAL FUND

Salaries and wages, ten thousand eight hundred eighty dollars ....$	10,880.00
Operation, twenty-nine thousand one hundred fifty-five dollars ....$	29,155.00
Repairs and replacements, eight thousand eight hundred seventy-five dollars ....$	8,875.00
Capital outlay, thirteen thousand eight hundred dollars ....$	13,800.00
Public employees' retirement system and social security, six hundred sixty dollars ....$	660.00

FROM THE ARMORY PHYSICAL PLANT FUND

As much as may be necessary to pay all lawful claims, as provided by law.

HISTORICAL SOCIETY OF MONTANA

FROM THE GENERAL FUND

Salaries and wages, fifty-one thousand dollars..........$	51,000.00
Operation, eight thousand dollars ....$	8,000.00
Repairs and replacements, two hundred dollars........$	200.00
Capital outlay, three thousand five hundred dollars....$	3,500.00
Public employees' retirement system and social security, three thousand three hundred dollars..................$	3,300.00

In addition to the above appropriation there is hereby appropriated from the general fund the following sums as set forth below for purposes as herein specified.

Appropriation for Russell statue:

Casting of 7′ monument, three thousand one hundred dollars ....$	3,100.00
Wooden base in Smithsonian Institution, sixty dollars ....$	60.00

Trucking fee to Smithsonian Institution, one hundred sixty dollars	$	160.00
Marble base bid, nine hundred twenty-six dollars	$	926.00

FROM THE MAGAZINE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE HISTORICAL SOCIETY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE SPECIAL LIBRARY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE MUSEUM FUND

As much as may be necessary to pay all lawful claims, as provided by law.

BOARD OF PARDONS

FROM THE GENERAL FUND

Salary of director, seven thousand dollars	$	7,000.00
Salaries, other employees, fifty-one thousand seven hundred dollars	$	51,700.00
Operation, twenty-eight thousand seven hundred thirty dollars	$	28,730.00
Capital outlay, three thousand one hundred fifty dollars	$	3,150.00
Public employees' retirement system and social security, three thousand eight hundred thirty-five dollars	$	3,835.00

CAPITOL CUSTODIAN

FROM THE GENERAL FUND

Salary, head of department, five thousand four hundred dollars	$	5,400.00
Salaries, other employees, two hundred eighteen thousand two hundred eighty-seven dollars	$	218,287.00

Operation, forty-two thousand three hundred fifty dollars $	42,350.00
Capital, repairs and replacements, two thousand five hundred dollars $	2,500.00
Public employees' retirement system and social security, thirteen thousand three hundred eighty dollars $	13,380.00

FROM THE HIGHWAY FUND

For operation, laboratory building, twenty-five thousand dollars $	25,000.00

All moneys accumulating or now accumulated in the Sam W. Mitchell building fund No. 200 shall be transferred to the general fund of the State of Montana.

COUNTY ATTORNEYS

FROM THE GENERAL FUND

Salaries and wages, one hundred fourteen thousand eight hundred dollars $	114,800.00
Public employees' retirement system and social security, five thousand seven hundred fifty dollars $	5,750.00

LIVESTOCK COMMISSION

FROM THE GENERAL FUND

For salaries and expenses, thirty-five thousand dollars $	35,000.00
Noxious rodent control, twenty thousand dollars $	20,000.00

FROM THE LIVESTOCK COMMISSION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE BOUNTY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE STOCK ESTRAY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE RODENT CONTROL FUND

As much as may be necessary to pay all lawful claims, as provided by law.

COMMISSIONER OF LANDS AND INVESTMENTS ADMINISTRATION

FROM THE GENERAL FUND

Salaries and wages, forty-six thousand eight hundred eighty dollars $	46,880.00
Operation, six thousand eight hundred ninety-two dollars $	6,892.00
Capital, repairs and replacements, nine hundred dollars $	900.00
Public employees' retirement system and social security, two thousand seven hundred sixty-five dollars $	2,765.00

FROM THE LAND SALES' PETTY CASH FUND

As much as may be necessary to pay all lawful claims, as provided by law.

CHIEF FIELD AGENT

FROM THE GENERAL FUND

Salaries and wages, thirty-seven thousand eight hundred forty dollars $	37,840.00
Operation, twenty-five thousand five hundred ten dollars $	25,510.00
Capital, repairs and replacements, four hundred twenty-five dollars $	425.00
Public employees' retirement system and social security, two thousand two hundred seventy-five dollars $	2,275.00

BOARD OF EXAMINERS ADMINISTRATION

FROM THE GENERAL FUND

Salary, head of department, eight thousand dollars $	8,000.00
Salaries, other employees, thirty-two thousand four hundred dollars $	32,400.00

Operation, five thousand three hundred fifty dollars	$ 5,350.00
Capital, repairs and replacements, one thousand one hundred dollars	$ 1,100.00
Public employees' retirement system and social security, two thousand seven hundred dollars	$ 2,700.00
For salaries and expenses of special investigators, twenty-two thousand dollars	$ 22,000.00
Requisitions, ten thousand dollars	$ 10,000.00
Dues to the Council of State Governments, two thousand five hundred dollars	$ 2,500.00
For the completion of appraisals of state property, six thousand seven hundred dollars	$ 6,700.00

CONSOLIDATED BOARDS

FROM THE GENERAL FUND

Salaries and wages, six thousand four hundred dollars	$ 6,400.00
Operation, two hundred sixty-five dollars	$ 265.00
Capital, repairs and replacements, two hundred eighty-five dollars	$ 285.00
Public employees' retirement system and social security, four hundred fifty dollars	$ 450.00

ENGINEERING DIVISION

FROM THE GENERAL FUND

Salaries and wages, twenty-one thousand three hundred sixty dollars	$ 21,360.00
Operation, four thousand four hundred fifteen dollars	$ 4,415.00
Capital, repairs and replacements, five hundred dollars	$ 500.00
Public employees' retirement system and social security, nine hundred sixty-one dollars	$ 961.00

WATER CONSERVATION BOARD

FROM THE GENERAL FUND

For administrative salaries and expenses, fifty-nine thousand two hundred fifty dollars	$	59,250.00
For betterments and repairs to existing projects, extensions to existing projects and construction of new projects, three hundred seventy-five thousand dollars	$	375,000.00
Public employees' retirement system, eight thousand five hundred dollars	$	8,500.00
For salaries and expenses of the revolving fund, eighty thousand dollars	$	80,000.00
For salary and expenses, Washington, D. C., representative, two thousand five hundred dollars	$	2,500.00
For planning board, fifty thousand dollars	$	50,000.00

In addition to the above appropriation, all monies paid or to be repaid the water conservation board from any source by reason of any previous expenditures made by said board from state funds, are hereby appropriated.

STATE ENGINEER ADMINISTRATION

FROM THE GENERAL FUND

Salary, head of department, seven thousand two hundred dollars	$	7,200.00
Salaries, other employees, ten thousand eight hundred dollars	$	10,800.00
Operation, two thousand five hundred dollars	$	2,500.00
Capital, repairs and replacements, two thousand five hundred fifty dollars	$	2,550.00
Public employees' retirement system and social security, three thousand dollars	$	3,000.00

STREAM GAUGING

FROM THE GENERAL FUND

Salaries and wages, twenty-four thousand dollars	$	24,000.00

Operation, two thousand five hundred eighty dollars	$	2,580.00
Capital, repairs and replacements, four thousand four hundred dollars	$	4,400.00
Social security, four hundred dollars	$	400.00

WATER RESOURCES SURVEY

FROM THE GENERAL FUND

Salaries and wages, forty-seven thousand dollars	$	47,000.00
Operation, nineteen thousand two hundred fifty-six dollars	$	19,256.00
Capital, repairs and replacements, three thousand two hundred fifty dollars	$	3,250.00
Social security, one thousand three hundred seventy-five dollars	$	1,375.00

YELLOWSTONE RIVER COMPACT

FROM THE GENERAL FUND

Salaries and wages, one thousand dollars	$	1,000.00
Operation, one thousand two hundred dollars	$	1,200.00

SURVEY OF INTERNATIONAL WATERS

FROM THE GENERAL FUND

Salaries and expenses, three thousand five hundred dollars	$	3,500.00

COLUMBIA RIVER COMPACT

FROM THE GENERAL FUND

Salaries and expenses, seven thousand two hundred dollars	$	7,200.00

CAREY LAND ACT BOARD

FROM THE GENERAL FUND

Salaries and expenses, six hundred dollars	$	600.00

LITTLE MISSOURI BASIN

FROM THE GENERAL FUND

Salaries and expenses, one thousand dollars	$	1,000.00

Gauging stations, construction and operation, two thousand dollars ....$	2,000.00

BOARD OF HAIL INSURANCE

FROM THE HAIL INSURANCE ADMINISTRATION FUND

Salaries and wages, twenty thousand six hundred dollars ....$	20,600.00
Operation, eleven thousand two hundred sixty dollars ....$	11,260.00
Repairs and replacements, four hundred dollars....$	400.00
Capital outlay, five hundred dollars ....$	500.00
Public employees' retirement system and social security, one thousand four hundred dollars ....$	1,400.00

FROM THE HAIL INSURANCE FUND

So much thereof as may be necessary to pay all losses and lawful claims, as provided by law.

STATE LIQUOR CONTROL BOARD

The state liquor control board is hereby authorized to pay all lawful claims from the monies received from the sale of liquor in the administration of the liquor control act as provided in sections 4-228 and 4-229, Revised Codes of Montana, 1947.

BEER DIVISION

FROM THE BEER ACT FUND

There is hereby appropriated as much as may be necessary not exceeding ten per cent (10%) of all revenue received, as provided in section 4-347, Revised Codes of Montana, 1947.

MONTANA FINE ARTS COMMISSION

FROM THE FINE ARTS COMMISSION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

Section 3. That the following sums, or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1960, and ending June 30, 1961.

APPRENTICESHIP COUNCIL

FROM THE GENERAL FUND

Salaries and wages, twenty thousand one hundred forty dollars	$	20,140.00
Operation, eight thousand one hundred seventy dollars	$	8,170.00
Repairs and replacements, three hundred twenty-two dollars	$	322.00
Capital outlay, two hundred seventy-eight dollars	$	278.00
Public employees' retirement system and social security, one thousand three hundred ten dollars	$	1,310.00

CIVIL DEFENSE

FROM THE GENERAL FUND

Salary, head of department, six thousand six hundred dollars	$	6,600.00
Salaries, other employees, three thousand dollars	$	3,000.00
Operation, ten thousand seven hundred fifty dollars	$	10,750.00
Public employees' retirement system and social security, six hundred fifty dollars	$	650.00

FROM THE CIVIL DEFENSE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE DISASTER RELIEF FUND

As much as may be necessary to pay all lawful claims, as provided by law.

STATE CONTROLLER

FROM THE GENERAL FUND

Salary, head of department, seven thousand dollars	$	7,000.00
Salaries, other employees, seventy thousand five hundred seventy dollars	$	70,570.00

Maintenance and operation, thirty thousand five hundred eighty dollars ....$	30,580.00
Capital outlay, one hundred dollars ....$	100.00
Public employees' retirement system and social security, seven thousand six hundred dollars....$	7,600.00

FROM THE MILLAGE FUND

Salaries and wages, ten thousand dollars ....$	10,000.00

FROM THE HIGHWAY FUND

Salaries and wages, twenty-two thousand five hundred dollars ....$	22,500.00

FROM THE FISH AND GAME FUND

Maintenance and operation, seven thousand five hundred dollars ....$	7,500.00

COMMODITY DISTRIBUTION DIVISION

FROM THE GENERAL FUND

Salaries and wages, fifteen thousand nine hundred sixty dollars ....$	15,960.00
Maintenance and operation, two thousand dollars....$	2,000.00

FROM THE COMMODITY DISTRIBUTION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

STATE BOARD OF EQUALIZATION ADMINISTRATION

FROM THE GENERAL FUND

Salaries of the board members, twenty-one thousand dollars ....$	21,000.00
Salaries of others, seventy-three thousand eight hundred dollars ....$	73,800.00
Operation, eighteen thousand two hundred fifty dollars ....$	18,250.00
Capital outlay, five hundred dollars ....$	500.00
Repairs and replacements, four hundred fifty dollars..$	450.00

Public employees' retirement system and social security, five thousand four hundred ninety-eight dollars ....$ 5,498.00

INCOME TAX DIVISION

FROM THE GENERAL FUND

Salaries, one hundred seventy-eight thousand five hundred sixty dollars ....$ 178,560.00

Operation, forty-eight thousand nine hundred thirty-seven dollars and fifty cents ....$ 48,937.50

Capital outlay, seventeen thousand eight hundred nine dollars ....$ 17,809.00

Repairs and replacements, two thousand six hundred sixty-three dollars ....$ 2,663.00

Public employees' retirement system and social security, ten thousand three hundred fifty-nine dollars....$ 10,359.00

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Salaries, fifty-nine thousand five hundred twenty dollars ....$ 59,520.00

Operation, sixteen thousand three hundred twelve dollars and fifty cents ....$ 16,312.50

Capital outlay, five thousand nine hundred thirty-six dollars ....$ 5,936.00

Repairs and replacements, eight hundred eighty-seven dollars ....$ 887.00

Public employees' retirement system and social security, three thousand four hundred fifty-three dollars..$ 3,453.00

FROM THE INCOME TAX WITHHOLDING FUND

As much as may be necessary to pay all lawful claims, as provided by law.

CORPORATION LICENSE TAX DIVISION

FROM THE GENERAL FUND

Salaries, eighteen thousand dollars ....$ 18,000.00

Operation, two thousand nine hundred sixty-two dollars and fifty cents ....$ 2,962.50

Capital outlay, two hundred twenty-five dollars $	225.00
Repairs and replacements, one hundred twelve dollars and fifty cents $	112.50
Public employees' retirement system and social security, one thousand forty-four dollars $	1,044.00

FROM THE PUBLIC SCHOOL EQUALIZATION FUND

Salaries, six thousand dollars $	6,000.00
Operation, nine hundred eighty-seven dollars and fifty cents $	987.50
Capital outlay, seventy-five dollars $	75.00
Repairs and replacements, thirty-seven dollars and fifty cents $	37.50
Public employees' retirement system and social security, three hundred forty-eight dollars $	348.00

LICENSING DIVISION

FROM THE GENERAL FUND

Salaries, twelve thousand dollars $	12,000.00
Operation, two thousand seven hundred fifty dollars $	2,750.00
Capital outlay, three hundred dollars $	300.00
Repairs and replacements, one hundred dollars $	100.00
Public employees' retirement system and social security, six hundred ninety-six dollars $	696.00

GASOLINE TAX REFUND AND TAX DIVISION

FROM THE HIGHWAY FUND

Salaries, ninety thousand one hundred twenty dollars $	90,120.00
Operation, thirty thousand three hundred fifty dollars $	30,350.00
Capital outlay, one thousand six hundred fifty dollars $	1,650.00
Repairs and replacements, one thousand fifty dollars $	1,050.00

Public employees' retirement system and social security, five thousand two hundred twenty-seven dollars ....$	5,227.00

FROM THE GASOLINE DRAWBACK FUND

For gasoline drawbacks, including refunds to the federal government, or as much as may be necessary to comply with the provisions of the law.

BOARD OF HEALTH

FROM THE GENERAL FUND

Salaries and expenses, two hundred seventy-three thousand five hundred dollars ....$	273,500.00
For cerebral palsy, fifty thousand dollars ....$	50,000.00
For stream pollution control and administration of federal sewage treatment construction grants, thirty thousand dollars ....$	30,000.00
For hospital facilities division for administering Hill Burton fund, thirty thousand dollars ....$	30,000.00

In addition thereto, there is hereby appropriated any money that may be received from the federal government to be used as provided in the grants for the various departments and hereby reappropriate any unexpended state funds.

VETERANS' WELFARE COMMISSION

FROM THE GENERAL FUND

Salaries and wages, one hundred six thousand dollars ....$	106,000.00
Operation, thirty-one thousand dollars ....$	31,000.00
Repairs and replacements, five hundred dollars....$	500.00
Public employees' retirement system and social security, seven thousand five hundred dollars ....$	7,500.00

TRANSPORTATION OF PRISONERS

FROM THE GENERAL FUND

For the purpose of paying the expenses of transporting prisoners, twenty-five thousand dollars ....$	25,000.00

DISTRICT JUDGES

FROM THE GENERAL FUND

For salaries, two hundred thirty-four thousand dollars ....$	234,000.00
For travel, nineteen thousand dollars ....$	19,000.00
For public employees' retirement system, industrial accident insurance, and social security, ten thousand four hundred twenty dollars ....$	10,420.00

LAW LIBRARY

FROM THE GENERAL FUND

Salary, head of department, five thousand three hundred dollars ....$	5,300.00
Salaries, other employees, three thousand dollars......$	3,000.00
Operation, three hundred ninety-two dollars ....$	392.00
Capital outlay, fifty dollars ....$	50.00
Legislative reference bureau, seventy-five dollars....$	75.00
Public employees' retirement system and social security, five hundred sixty dollars ....$	560.00

FROM THE LAW LIBRARY BOOK FUND

As much as may be necessary to pay all lawful claims, as provided by law.

STATE P B X DIVISION

FROM THE GENERAL FUND

Salaries and expenses, twenty-nine thousand five hundred dollars ....$	29,500.00

It is hereby provided that the State Highway Commission, Unemployment Compensation Commission, Fish and Game Commission, Liquor Control Board, Industrial Accident Board, Board of Education, Superintendent of Public Instruction, Oil and Gas Conservation Commission, Public Employees' Retirement System, Executive Secretary of the University of Montana, Social Security Division, Teachers' Retirement System, Adjusted Compensation Division, Board of Hail Insurance, Board of Examiners for Nurses, Board of Plumbing Examiners, Livestock Commission, Joint Merit

System and State Aeronautics Commission shall pay their proportionate shares of the cost of operating the P B X Division, as determined by the state controller, to the state controller for deposit to the credit of the general fund of the State of Montana.

FROM THE STATE P B X FUND

As much as may be necessary to pay all lawful claims, as provided by law.

ADJUTANT GENERAL
ADMINISTRATION

FROM THE GENERAL FUND

Salaries and wages, eighty-seven thousand six hundred sixteen dollars ....$	87,616.00
Operations, one hundred twenty-nine thousand five hundred dollars ....$	129,500.00
Repairs and replacements, twelve thousand nine hundred sixty dollars ....$	12,960.00
Capital outlay, five thousand five hundred dollars....$	5,500.00
Public employees' retirement system and social security, six thousand eight hundred fifty-nine dollars....$	6,859.00

ARMORIES DIVISION

FROM THE GENERAL FUND

Salaries and wages, eleven thousand three hundred dollars ....$	11,300.00
Operation, twenty-nine thousand one hundred fifty-five dollars ....$	29,155.00
Repairs and replacements, seven thousand seventy-five dollars ....$	7,075.00
Capital outlay, five thousand four hundred dollars....$	5,400.00
Public employees' retirement system and social security, seven hundred thirteen dollars ....$	713.00

FROM THE ARMORY PHYSICAL PLANT FUND

As much as may be necessary to pay all lawful claims, as provided by law.

HISTORICAL SOCIETY OF MONTANA

FROM THE GENERAL FUND

Salaries and wages, fifty-one thousand dollars ....$	51,000.00
Operation, eight thousand dollars ....$	8,000.00
Repairs and replacements, two hundred dollars ....$	200.00
Capital outlay, three thousand five hundred dollars....$	3,500.00
Public employees' retirement system and social security, three thousand three hundred dollars ....$	3,300.00

FROM THE MAGAZINE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE HISTORICAL SOCIETY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE SPECIAL LIBRARY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE MUSEUM FUND

As much as may be necessary to pay all lawful claims, as provided by law.

BOARD OF PARDONS

FROM THE GENERAL FUND

Salary of director, seven thousand dollars.................$	7,000.00
Salaries, other employees, fifty-one thousand seven hundred dollars ....$	51,700.00
Operation, twenty-eight thousand seven hundred thirty dollars ....$	28,730.00
Capital outlay, one hundred fifty dollars ....$	150.00
Public employees' retirement system and social security, three thousand eight hundred eighty-five dollars ....$	3,885.00

CAPITOL CUSTODIAN

FROM THE GENERAL FUND

Salary, head of department, five thousand four hundred dollars	$	5,400.00
Salaries, other employees, two hundred eighteen thousand two hundred eighty-seven dollars	$	218,287.00
Operation, forty-two thousand three hundred fifty dollars	$	42,350.00
Capital, repairs and replacements, two thousand five hundred dollars	$	2,500.00
Public employees' retirement system and social security, thirteen thousand three hundred eighty dollars	$	13,380.00

FROM THE HIGHWAY FUND

For operation, laboratory building, twenty-five thousand dollars	$	25,000.00

All moneys accumulating or now accumulated in the Sam W. Mitchell building fund No. 200 shall be transferred to the general fund of the State of Montana.

COUNTY ATTORNEYS

FROM THE GENERAL FUND

Salaries and wages, one hundred fourteen thousand eight hundred dollars	$	114,800.00
Public employees' retirement system and social security, five thousand seven hundred fifty dollars	$	5,750.00

LIVESTOCK COMMISSION

FROM THE GENERAL FUND

Noxious rodent control, twenty thousand dollars	$	20,000.00

FROM THE LIVESTOCK COMMISSION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE BOUNTY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE STOCK ESTRAY FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE RODENT CONTROL FUND

As much as may be necessary to pay all lawful claims, as provided by law.

COMMISSIONER OF LANDS AND INVESTMENTS ADMINISTRATION

FROM THE GENERAL FUND

Salaries and wages, forty-six thousand eight hundred eighty dollars	$	46,880.00
Operation, six thousand six hundred ninety-two dollars	$	6,692.00
Capital, repairs and replacements, nine hundred dollars	$	900.00
Public employees' retirement system and social security, two thousand seven hundred sixty-five dollars	$	2,765.00

FROM THE LAND SALES' PETTY CASH FUND

As much as may be necessary to pay all lawful claims, as provided by law.

CHIEF FIELD AGENT

FROM THE GENERAL FUND

Salaries and wages, thirty-seven thousand eight hundred forty dollars	$	37,840.00
Operation, twenty-five thousand five hundred ten dollars	$	25,510.00
Capital, repairs and replacements, four hundred twenty-five dollars	$	425.00
Public employees' retirement system and social security, two thousand two hundred seventy-five dollars	$	2,275.00

BOARD OF EXAMINERS ADMINISTRATION

FROM THE GENERAL FUND

Salary, head of department, eight thousand dollars	$	8,000.00

Salaries, other employees, thirty-two thousand four hundred dollars	$	32,400.00
Operation, five thousand three hundred fifty dollars	$	5,350.00
Capital, repairs and replacements, one thousand one hundred dollars	$	1,100.00
Public employees' retirement system and social security, two thousand seven hundred dollars	$	2,700.00
For salaries and expenses of special investigators, twenty-two thousand dollars	$	22,000.00
Requisitions, ten thousand dollars	$	10,000.00
Dues to the Council of State Governments, two thousand five hundred dollars	$	2,500.00

CONSOLIDATED BOARDS

FROM THE GENERAL FUND

Salaries and wages, six thousand four hundred dollars	$	6,400.00
Operation, two hundred sixty-five dollars	$	265.00
Capital, repairs and replacements, two hundred eighty-five dollars	$	285.00
Public employees' retirement system and social security, four hundred fifty dollars	$	450.00

ENGINEERING DIVISION

FROM THE GENERAL FUND

Salaries and wages, twenty-one thousand three hundred sixty dollars	$	21,360.00
Operation, four thousand six hundred fifteen dollars	$	4,615.00
Capital, repairs and replacements, five hundred dollars	$	500.00
Public employees' retirement system and social security, nine hundred sixty-one dollars	$	961.00

WATER CONSERVATION BOARD

FROM THE GENERAL FUND

For administrative salaries and expenses, fifty-nine thousand two hundred fifty dollars	$	59,250.00

For betterments and repairs to existing projects, extensions to existing projects and construction of new projects, three hundred seventy-five thousand dollars....$	375,000.00
Public employees' retirement system, eight thousand five hundred dollars ....$	8,500.00
For salaries and expenses of the revolving fund, eighty thousand dollars ....$	80,000.00
For salary and expenses, Washington, D. C., representative, two thousand five hundred dollars ....$	2,500.00
For planning board, fifty thousand dollars....$	50,000.00

In addition to the above appropriation, all monies paid or to be repaid the water conservation board from any source by reason of any previous expenditures made by said board from state funds, are hereby appropriated.

STATE ENGINEER ADMINISTRATION

FROM THE GENERAL FUND

Salary, head of department, seven thousand two hundred dollars ....$	7,200.00
Salaries, other employees, ten thousand eight hundred dollars ....$	10,800.00
Operation, two thousand five hundred dollars....$	2,500.00
Capital, repairs and replacements, four hundred fifty dollars ....$	450.00
Public employees' retirement system and social security, three thousand dollars ....$	3,000.00

STREAM GAUGING

FROM THE GENERAL FUND

Salaries and wages, twenty-four thousand dollars....$	24,000.00
Operation, two thousand five hundred eighty dollars ....$	2,580.00
Capital, repairs and replacements, four thousand four hundred dollars ....$	4,400.00
Social security, four hundred dollars ....$	400.00

WATER RESOURCES SURVEY

FROM THE GENERAL FUND

Salaries and wages, forty-seven thousand dollars....$	47,000.00
Operation, nineteen thousand two hundred fifty-six dollars ....$	19,256.00
Capital, repairs and replacements, two thousand eight hundred fifty dollars ....$	2,850.00
Social security, one thousand three hundred seventy-five dollars ....$	1,375.00

YELLOWSTONE RIVER COMPACT

FROM THE GENERAL FUND

Salaries and wages, one thousand dollars....$	1,000.00
Operation, one thousand two hundred dollars....$	1,200.00

SURVEY OF INTERNATIONAL WATERS

FROM THE GENERAL FUND

Salaries and expenses, three thousand five hundred dollars ....$	3,500.00

COLUMBIA RIVER COMPACT

FROM THE GENERAL FUND

Salaries and expenses, seven thousand two hundred dollars ....$	7,200.00

LITTLE MISSOURI BASIN

FROM THE GENERAL FUND

Salaries and expenses, one thousand dollars....$	1,000.00
Gauging stations, construction and operation, two thousand dollars ....$	2,000.00

BOARD OF HAIL INSURANCE

FROM THE HAIL INSURANCE ADMINISTRATION FUND

Salaries and wages, twenty thousand six hundred dollars ....$	20,600.00
Operation, eleven thousand two hundred sixty dollars ....$	11,260.00

Repairs and replacements, four hundred dollars	$	400.00
Capital outlay, five hundred dollars	$	500.00
Public employees' retirement system and social security, one thousand four hundred dollars	$	1,400.00

FROM THE HAIL INSURANCE FUND

So much thereof as may be necessary to pay all losses and lawful claims, as provided by law.

STATE LIQUOR CONTROL BOARD

The state liquor control board is hereby authorized to pay all lawful claims from the monies received from the sale of liquor in the administration of the liquor control act as provided in sections 4-228 and 4-229, Revised Codes of Montana, 1947.

BEER DIVISION

FROM THE BEER ACT FUND

There is hereby appropriated as much as may be necessary not exceeding ten per cent (10%) of all revenue received, as provided in section 4-347, Revised Codes of Montana, 1947.

MONTANA FINE ARTS COMMISSION

FROM THE FINE ARTS COMMISSION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

Section 4. Provided further, that all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in section 1 of this act shall govern all appropriations.

Section 5. It is further provided that wherein departments or institutions have appropriations from sources other than the general fund or university millage fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used when available before using the appropriations from the general fund or university millage fund; provided, however, that such restrictions shall not apply to monies from special tax on livestock, or to special fees collected on livestock or from livestock owners as provided by law.

Section 6. The appropriations herein provided for shall be held valid notwithstanding the provisions of the budget act.

Approved March 14, 1959.

THIRTY-SIXTH LEGISLATIVE ASSEMBLY

HOUSE JOINT MEMORIAL NO. 1

A Joint Memorial of the House of Representatives and Senate of the State of Montana to the Congress of the United States; the Honorable James E. Murray and the Honorable Mike Mansfield, Senators from the State of Montana; the Honorable Lee Metcalf and the Honorable LeRoy Anderson, Representatives from the State of Montana; and to the Committees on Interstate and Foreign Commerce of the House of Representatives and the Senate of the United States, Urging Such Remedial Action, Through Congress' Authority Over the Federal Communications Commission, as Will Insure Continued Operation of the Free Television Stations in Montana; Regulating Companies Who Transmit Signals to Feed Cable Systems from Outside the State of Montana; and to Insure Continued Operation of Low Power VHF Booster Stations, to the End that the People of Montana Shall Not Be Denied the Advantageous Services of a Montana System of Free Television Broadcasting.

WHEREAS, almost, if not all people in communities and farm areas within the State of Montana depend upon Montana free television stations and upon low power VHF booster stations as their only means of receiving television programs; and,

WHEREAS, the rugged terrain of the Rocky Mountain region makes it impossible for Montana stations to reach many hundreds of small Montana communities and the use of ultra-high frequency translator stations impractical, if indeed not impossible, according to the opinions expressed by competent and qualified broadcast engineers, as well as by certain members of the Federal Communications Commission; and,

WHEREAS, it is economically impossible for these communities to receive cable service from one of the so-called CATV systems and impossible for the areas to support, construct or operate any other form of duly authorized television service except the free television stations and VHF boosters working in tandem; and,

WHEREAS, there is ample proof that low power VHF booster stations can be regulated so as to preclude interference with licensed television services or other services; and,

WHEREAS, if the present policies of the Federal Communications Commission are permitted to continue, as pointed out in the Report of the United States Senate Committee on Interstate and Foreign Commerce issued December 26, 1958, there soon may not be any free television stations remaining in the States of Montana, Wyoming and other large Western areas to wit:

''The undesirable economic, cultural, political, and other consequences of making Montana and northern Idaho tributary to Spokane, southern Idaho dependent upon Salt Lake City, and Wyoming and western Nebraska mere adjuncts to Denver should be so clear as to require no elaboration—as well as similar possibilities with respect to Nevada, parts of Texas, the Dakotas, and possibly other areas;'' and

WHEREAS, the free television station at Helena has ceased operations as of February 1st; the free television station at Missoula has, by sworn testimony sustained losses exceeding one hundred forty thousand dollars ($140,000.00); and the free television stations at Butte and Great Falls distinctly are menaced; the possibility of a blanked out free television state, due to Federal Communications Commission policies, may be closer than we think; and,

WHEREAS, the Federal Communications Commission did summarily dismiss, without formal hearing, its own rule making proceedings relating to ''repeater'' or VHF ''booster'' stations operating in the VHF television band of frequency assignment; and,

WHEREAS, the Federal Communications Commission did, on December 31, 1958, make formal announcement of its dismissal of petitions for reconsideration; and,

WHEREAS, the question of regulation of the CATV systems has been before the Federal Communications Commission since 1951, (see December 26, 1958 Report of the United States Senate Committee on Interstate and Foreign Commerce) and the Federal Communications Commission still refuses to take action; and,

WHEREAS, the Federal Communications Commission did also announce on December 31, 1958 that all VHF booster stations would be getting a period of ninety (90) days in which to apply for conversion to ultra-high frequency (UHF) translators or some other authorized television operation, and upon failure to do so, would be ordered to cease operation;

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the State of Montana, the Senate concurring herein, that this General Assembly hereby memorializes the Congress of the United States for such remedial action within such period as the Congress deems fit, through the exercise of its authority over the Federal Communications Commission, to insure the continued operation of the free television stations in Montana, and the regulation of companies who transmit signals to feed cable systems from outside the State of Montana, and the continued operation of low power VHF booster stations, to the end that the people of the State of Montana shall not be denied their basic right to have access to the informational, educational, inspirational, cultural and entertainment service of a Montana system of free television broadcasting; and,

BE IT FURTHER RESOLVED, that a copy of this Memorial be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; to the Senators and Congressmen representing the State of Montana in the Congress of the United States, to the Chairman and Members of the Committees on Interstate and Foreign Commerce of the House of Representatives and the Senate of the United States.

Approved February 19, 1959.

HOUSE JOINT MEMORIAL NO. 2

A Joint Memorial of the Senate and House of Representatives of the State of Montana to the President of the United States, Dwight D. Eisenhower; Senator James E. Murray, of Montana; Senator Mike Mansfield, of Montana; Congressman Lee Metcalf, of Montana; Congressman LeRoy Anderson, of Montana; the Committee on Appropriations of the United States Senate; the Committee on Appropriations of the United States House of Representatives; the Committee on Interior and Insular Affairs of the United States Senate; the Committee on Interior and Insular Affairs of the United States House of Representatives; the Committee on Public Works of the United States House of Representatives; the Secretary of the Interior, Fred A. Seaton; the Commissioner of the Bureau of Reclamation, Wilbur A. Dexheimer; the Secretary of the Army, Wilber M. Brucker; the Director of the Budget, Maurice H. Stans; Requesting the Introduction and Enactment into Law of the Necessary and Proper Legislation to Authorize and Provide Funds to Start the Construction on Yellowtail Dam on the Big Horn River in the State of Montana for 1959.

WHEREAS, since the turn of the century, men of good will and great vision have labored long and wisely to bring Yellowtail Dam into being; and

WHEREAS, many and high were the hurdles and obstacles that had to be overcome before construction of the Yellowtail Dam could be started; and

WHEREAS, one by one, these many obstacles preventing the construction of Yellowtail Dam were overcome, until one alone remained, and that one was the acquiring of the dam site, upon which the proposed Yellowtail Dam would in time be built, from the Crow Indian Tribe; and

WHEREAS, that one remaining obstacle, the acquiring of the Yellowtail Dam Site, has, due to the wise action of the last Congress been overcome with the paying of two and one-half million dollars ($2,500,000.00) to the Crow People for this valuable piece of property, and

WHEREAS, the American people have a large investment in the proposed Yellowtail Dam; and

WHEREAS, no returns can be had from the monies already invested in Yellowtail Dam until said Yellowtail Dam is constructed;

NOW, THEREFORE, BE IT RESOLVED, by the Thirty-sixth Legislative Assembly of the State of Montana now in session, the Senate and House of Representatives concurring, that the Congress of the United States be requested and urged to appropriate the sum of ten million dollars ($10,000,000.00), so that the construction of the sorely needed Yellowtail Dam Project may begin at once.

BE IT FURTHER RESOLVED, that the amendment include reservation of a block of power for Montana.

BE IT FURTHER RESOLVED, that copies of this Memorial be submitted by the Secretary of the State of Montana to each of the individuals, and to the chairmen of each of the Committees mentioned in this Memorial, as well as to the presiding officers of both Houses of the United States Congress, Richard M. Nixon and Sam E. Rayburn.

Approved February 20, 1959.

HOUSE JOINT MEMORIAL NO. 3

A Joint Memorial of the Senate and House of Representatives of the State of Montana to the President of the United States, Dwight D. Eisenhower; the Congress of the United States; James E. Murray and Mike Mansfield, Senators from the State of Montana; Lee Metcalf and LeRoy Anderson, Representatives in Congress from the State of Montana; the Committee On Public Works of the United States Senate; the Committee On Public Works of the United States House of Representatives; the Committee On Appropriations of the United States Senate; the Committee On Appropriations of the United States House of Representatives; the Secretary of the Army, Wilber M. Brucker; the Chief of the Corps of Engineers, Department of the Army, Major General E. C. Itschner; and the Director of the Budget, Maurice H. Stans; Urging Construction of Libby Dam In Two Stages, with Work Beginning On the Initial Stage as Soon as Possible In Order to Protect the National Interest In Water and Water Resources Rising In the United States; and Requesting Sufficient Appropriations So that Detailed Planning and Design Work Can Begin Immediately.

WHEREAS, Libby Dam site is located in Lincoln County in Western Montana and Libby Dam will be constructed across the Kootenai River some 15 miles upstream from Libby, Montana; and

WHEREAS, preliminary geological and engineering investigation and planning of the Libby Dam project have been carefully completed and the findings compiled; and

WHEREAS, Libby Dam, the biggest storage project remaining to be built in the Pacific Northwest, will be designed to provide flood control, hydroelectric power, recreation and navigation benefits to Montana, the Pacific Northwest and the nation; and

WHEREAS, the Libby project's tremendous storage of water—5,985,000 acre-feet—would provide valuable flood control for several hundred miles along the Kootenai and Columbia Rivers and also would substantially aid flood control and navigation on the Columbia River below Pasco, Washington; and

WHEREAS, Libby Dam will have an initial installed electric generating capacity of 600,000 kilowatts, an ultimate installation of 800,000 kilowatts of power, which Montana and the Northwest need to bring in new industry; and

WHEREAS, Libby Dam storage would also firm up power production in the projects downstream on the Columbia River; would provide a regulated stream flow which would add 805,000 kilowatts to the production at Grand Coulee, Chief Joseph, McNary, the Dalles and Bonneville dams; and

WHEREAS, No other proposed single dam on the Columbia River system would provide for generation of as much salable power at site and downstream; and

WHEREAS, the rapidly increasing population of the Pacific Northwest and the nation places upon this generation a special responsibility for the maximum utilization of all the great natural resources bestowed upon this country by Divine Providence; and

WHEREAS, any lesser development of the Libby Dam site would result in great loss of storage capacity and both, at-site and downstream power benefits, which can create thousands of jobs urgently needed to provide for our burgeoning population and the future defense and welfare of our region and the nation; and

WHEREAS, the Pacific Northwest is isolated from the major population centers of the nation by great distances and high freight rates and must rely upon the full development of its own natural resources in providing for its future growth and economic welfare; and

WHEREAS, hydroelectric power is the only truly inexhaustible energy resource available to a civilization whose entire future growth and economic strength will be increasingly dependent upon the provision of adequate supplies of electric energy; and

WHEREAS, the industrial development of Montana and the entire Pacific Northwest will be greatly enhanced by the large amounts of low cost power made available by the full development of the potential of the Libby Dam site; and

WHEREAS, the people of the State of Montana have seen in the examples of Hungry Horse Dam on the south fork of the Flathead River in their state and many other dams in the Pacific Northwest the immense benefits which accrue as a direct result of the construction of such great projects, not only to the state in which they are constructed but also to the entire region and the nation; and

WHEREAS, revenues from the sale of power from Libby Dam represent the most feasible source of funds to aid in the rapid construction and the maintenance of major future irrigation projects in the State of Montana, which developments can provide homes for any farm families which may be displaced by the construction of Libby Dam; and

WHEREAS, large amounts of storage are required in the Columbia River and Clark Fork River Basins to provide adequate protection against the seasonal floods which periodically cause great loss of life and the destruction of millions of dollars worth of property, causing great hardship throughout the Pacific Northwest, and

WHEREAS, many of the large storage projects planned by the Army Engineers for the control of floods in the Columbia River Basin have been and are being lost due to conflicting uses and inadequate development, so that it is seriously doubtful that even the minimum flood control storage requirements of the region can be met; and

WHEREAS, Libby Dam, with 5,985,000 acre-feet of usable storage in its reservoir is one of the few remaining great storage projects still feasible and not involved in serious controversy in the Columbia River Basin and can provide more usable flood control storage than a combination of all the other feasible potential projects in the Clark Fork River Basin; and

WHEREAS, Libby Dam, as planned and authorized, must have the approval of the International Joint Commission; and

WHEREAS, the International Joint Commission has for years been unable to reach agreement on the project and says it will not give approval until the Canadian Government's investigation of alternative uses of the Kootenai waters in Canada has been completed; and

WHEREAS, one of the Canadian proposals is to divert part of the Kootenai River flow into the Columbia River at Canal Flats, in order to generate additional power at sites in Canada; and

WHEREAS, such a diversion would materially reduce the amount of water available for storage and generation at the proposed Libby site, and could reduce the amount to the point where Libby dam would be unfeasible; and

WHEREAS, in order to protect Montana's and the national interest in water and water resources rising in the United States, in order to provide for at least partial flood control and storage;

NOW, THEREFORE, BE IT RESOLVED, by the Senate and House of Representatives of the State of Montana, that the representatives of the State of Montana in the Congress of the United States be urged and requested to introduce and the Congress of the United States be urged and requested to enact into law an amendment to the existing authorization of the Libby project, necessary to provide for construction in two stages, the first back-ing water up to the International Boundary, the second to be added when agreement is reached with Canada;

BE IT FURTHER RESOLVED, that the Congress of the United States be urged to provide sufficient appropriations so that detailed planning and design work for two-stage construction can begin immediately and that construction can begin as soon as design work is completed:

BE IT FURTHER RESOLVED, that the amendment include reservation of a block of power for Montana:

BE IT FURTHER RESOLVED, that this Assembly request the Congress, in making appropriations for the construction of the Libby project, to define the compensations that shall be received from the Government of the United States by the County of Lincoln and by affected cities and school districts in said county for extraordinary expenses resulting from expanded services required in the fields of school and hospital facilities, health and sanitation, and police protection incidental to the construction of said projects; and to provide all necessary funds and take all needed action to insure the construction of all transportation and other facilities needed to provide opportunity equal to that now existing of access to mines, to forests in federal, state, and private ownership, and to manufacturing and refining plants, to the end that the present steady and continuous employment of Montana people depending upon forests and mines for their livelihood will not be adversely affected; and

BE IT FURTHER RESOLVED, that copies of this Memorial be submitted by the Secretary of the State of Montana to each of the individuals and to the chairmen of each of the committees named in the title of this Memorial and also to the presiding officers of both Houses of the Congress of the United States, Richard M. Nixon, and Sam E. Rayburn.

Approved February 16, 1959.

HOUSE JOINT MEMORIAL NO. 5

A Joint Memorial of the Senate and House of Representatives of the State of Montana to the Governor of the State of Montana, J. Hugo Aronson, Requesting Said Governor to Proclaim October 31st as Youth Honor Day.

WHEREAS, it is of utmost importance to the welfare of this nation that the youth of this state be given recognition for their outstanding achievements and be encouraged to prepare themselves for their responsibilities and obligations as citizens of this great nation; and

WHEREAS, the Legislatures of several states, at the behest of THE LOYAL ORDER OF MOOSE, which organization conceived and originated the Youth Honor Day Program, have adopted resolutions designating October 31st of each year as Youth Honor Day, which is appropriately observed in honor of the youth of this nation; and

WHEREAS, the Youth Honor Day program has been of tremendous benefit to the youth of America by providing them with the opportunity to assume the responsibility of governing the conduct of the members of their own group; and

WHEREAS, the adoption of the Youth Honor Day program would prove very beneficial not only to the youth but also to all the people of this state;

NOW, THEREFORE, BE IT RESOLVED, by the Thirty-sixth Legislative Assembly of the State of Montana now in session, the Senate and House of Representatives concurring:

1. The Governor is respectfully requested to issue a proclamation designating October 31st of each year as Youth Honor Day and to urge the people of this state to actively participate in the observance of this day.

2. The Secretary of State of the State of Montana is respectfully requested to forward a copy of this concurrent resolution to the Governor, the Honorable J. Hugo Aronson.

Approved March 5, 1959.

HOUSE JOINT MEMORIAL NO. 7

A Joint Memorial of the Senate and House of Representatives of the State of Montana to the President of the United States, Dwight D. Eisenhower; the Congress of the United States; James E. Murray and Mike Mansfield, Senators from the State of Montana; Lee Metcalf and LeRoy Anderson, Representatives in the Congress from the State of Montana; the Committee on Public Works of the United States Senate; the Committee on

Public Works of the United States House of Representatives; the Committee on Appropriations of the United States Senate; the Committee on Appropriations of the United States House of Representatives; Interior Committees; the Secretary of the Army, Wilber M. Brucker; the Chief of the Corps of Engineers, Department of the Army, Major General E. C. Itschner; the Secretary of the Interior, Fred Seaton; the Commissioner of the Bureau of Reclamation, W. A. Dexheimer; and the Director of the Budget, Maurice H. Stans; Requesting the Introduction and Enactment Into Law of the Necessary and Proper Legislation to Authorize Construction by the Federal Government of Glacier View Dam on the North Fork of the Flathead River in the State of Montana with Appropriate Provision for the Reservation of a Block of Power Generated Therefrom to Montana; to Authorize that Sufficient Appropriations be Provided for the Detailed Planning and Construction of Glacier View Dam.

WHEREAS, Glacier View Dam and reservoir is a proposed multiple-purpose project, to be located at Flathead River Mile 177 on the western boundary of Glacier National Park, 72 miles upstream from Flathead Lake and 41 miles below the International Boundary; and

WHEREAS, Glacier View project would provide flood control, hydro-electric power and recreation benefits; and

WHEREAS, Glacier View Lake behind this dam will stabilize the economy of Glacier National Park by providing the recreational facilities so badly needed; and

WHEREAS, construction of Glacier View project would not disturb the economy of the vicinity in which it is located; it would flood no towns; private property affected would be a number of small ranches and dude ranches in the North Fork Valley; tax revenue loss would amount at most to five hundred dollars ($500.00) a year; and

WHEREAS, the United States Geological Survey-Water-Supply Paper 866-C 1947, recommended this dam site; and

WHEREAS, The Army Engineers in House Document No. 531-1950 also recommend this dam site; and

WHEREAS, these multiple-purpose benefits combine to give the project a favorable benefit-to-cost ratio of 1.84 to 1; and

WHEREAS, the pool level at 3660 above sea level, would provide 3,025,100 acre-feet of vitally needed headwater flood control storage; and

WHEREAS, the release of flood waters as needed through the winter season of low stream flow would generate 225,000 kilowatts of hydroelectric power, and in addition, would make Coram Canyon Dam feasible and firm up power production of many down stream dams on the Columbia River; and

WHEREAS, many industries are now looking for large blocks of low cost firm hydro power in the Northwest; and

WHEREAS, development of the Glacier View Dam site would create jobs urgently needed to provide for our burgeoning population and the future defense and welfare of our region and the nation; and

WHEREAS, the industrial development of Montana and the entire Pacific Northwest will be greatly enhanced by the large amounts of low cost power made available by the full development of the potential of the Glacier View Dam site; and

WHEREAS, the people of the State of Montana have seen in the example of Hungry Horse Dam on the South Fork of the Flathead River; the immense benefits which accrue as a direct result of the construction of these great projects; not only to the state in which they are constructed but also to the entire region and nation; and

WHEREAS, revenues from the sale of power from Glacier View Dam represent the most feasible source of funds to aid in the rapid construction and the maintenance of major future irrigation projects in the State of Montana; and

WHEREAS, the Glacier View Reservoir will have great value for the conservation and development of fish and wildlife resources and will provide a superb recreational area for the sportsmen and many families of the Northwest and the nation who enjoy Montana's great scenic beauty and outstanding outdoor attractions; and

WHEREAS, large amounts of storage are required in the Flathead River to provide adequate protection against the seasonal floods which periodically cause great loss of life and the destruction of millions of dollars worth of property, causing great hardship throughout the Pacific Northwest; and

WHEREAS, many of the large storage projects planned by the

Army Engineers for the control of floods in the Columbia River Basin have been and are being lost due to conflicting uses and inadequate development, so that it is seriously doubtful that even the minimum flood control storage requirements of the region can be met; and

WHEREAS, the Glacier View project was dropped from the Corps of Engineers 308 Report, primarily because of opposition from the National Park Service and conservation organizations, whose objections are summarized as follows:

1. The reservoir would inundate about 19,000 acres of land within the western boundary of Glacier National Park; destroy some 8,000 acres of virgin timber; require destruction of 56 per cent of the white-tailed deer, 30 per cent of the mule deer and elk, over 50 per cent of the moose, due to flooding of their winter-feeding area; flood out over 70 per cent of the beaver; impair the natural beauty of the valley, with an attendant loss of interest of park visitors who come for stream fishing.

2. The project would violate policy established under the Act of August 22, 1914 (38 Stat. 699) accepting Federal jurisdiction over Glacier National Park, which specifically requires the Park Service to afford protection against any attempted action adversely affecting the natural wildlife, growth or beauty of the Park; and

WHEREAS, the answers to these two major objections are as follows:

1. The reservoir would inundate 10,000 acres, only one per cent of the total area of Glacier National Park; nearly all the reservoir area is covered with second growth brushy fir and lodgepole pine; there are vast areas just as good as the reservoir area into which the game would move; the reservoir would be filled from the spring flood flow, retained as a stable lake throughout the summer recreational period; use of part of the stored water would begin in the fall and continue through the winter until capacity was again available for retention of spring flood waters and a repetition of the cycle; this operation would enhance, not harm, recreational use of what is now a little used valley, largely an unsightly burn with no scenic attraction; construction of a road around the reservoir would make for easier access into an area now almost inaccessible.

2. The Act of August 22, 1914, acknowledges the fact that provision for beneficial uses of water resources has a higher priority

than "reservation of all timber—natural curiosities—and the protection of the animals—"; and

WHEREAS, the public interest would so clearly be served best by construction of Glacier View Dam and reservoir;

NOW, THEREFORE, BE IT RESOLVED by the Senate and House of Representatives of the State of Montana, that the representatives of the State of Montana in the Congress of the United States be requested to enact into law necessary and proper legislation to authorize construction by the Federal Government of Glacier View Dam on the North Fork of the Flathead River in the State of Montana;

BE IT FURTHER RESOLVED, THAT said legislation authorizing the construction of Glacier View Dam contain a provision reserving to Montana a block of the power generated by Glacier View Dam;

BE IT FURTHER RESOLVED, THAT the Bureau of Reclamation be authorized and sufficient appropriations be provided for the detailed planning and construction of Glacier View Dam;

BE IT FURTHER RESOLVED, THAT this assembly request the Congress, in making appropriations for the construction of the Glacier View project, to define the compensations that shall be received from the Government of the United States by the County of Flathead and by affected cities and school districts in said county for extraordinary expenses resulting from expanded services required in the fields of school and hospital facilities, health and sanitation, and police protection incidental to the construction of said projects; and to provide all necessary funds and take all needed action to insure the construction of all transportation and other facilities needed to provide opportunity equal to that now existing of access to mines, to forests in federal, state and private ownership, and to manufacturing and refining plants, to the end that the present steady and continuous employment of Montana people depending upon forests and mines for their livelihood will not be adversely affected; and

BE IT FURTHER RESOLVED, THAT copies of this memorial be submitted by the Secretary of the State of Montana to each of the individuals and to the chairman of each of the committees named in the title of this memorial and also to the presiding officers of both Houses of the Congress of the United States, Richard M. Nixon, and Sam E. Rayburn.

Approved March 12, 1959.

HOUSE JOINT MEMORIAL NO. 9

A Joint Memorial of the Senate and the House of Representatives of the State of Montana to the President of the United States; to the Congress of the United States; to the Secretary of Defense and the Department of Defense; to the Honorable United States Senators James E. Murray and Mike Mansfield; and to the Honorable Representatives in Congress Lee Metcalf and LeRoy Anderson; Requesting That the Department of Defense Activate and Utilize the Facilities of Fort Missoula at Missoula, Montana as a Regular Army Post, or if Such Is Not Presently Possible, to Keep Said Post Intact, Maintained and Under Consideration for Future Use.

WHEREAS, the United States of America formerly established a military reservation in Missoula County, Montana, which was legally denominated Fort Missoula; and

WHEREAS, Fort Missoula is one of the finest small army posts in the nation and the only remaining fort in this state it should not be allowed to stand idle and go to ruin as has occurred at times during the past; and

WHEREAS, the citizens of Missoula, through John Bonner, E. E. Hershey and the Missoula Chamber of Commerce, have heretofore donated substantial areas of land to the United States for the reservation at Fort Missoula; and

WHEREAS, after many land disposals since 1942 the main reservation still consists of approximately five hundred acres plus a large firing range and a timber tract both being administered by another department of the government; and

WHEREAS, as a branch of Camp Hanford, Washington, little use is being made of the facilities which include permanent type buildings with a capacity of approximately five hundred officers and men; and

WHEREAS, prior to last year when Montana Headquarters (U. S. Army Reserve) was transferred to Fort Lawton, Washington, most of the buildings had been renovated and roads, lawns and walks replaced or repaired; and

WHEREAS, considering current budgetary restrictions governing the Department of the Army, this fine old post, the last in Montana, located in one of our country's more favorable climates and scenic valleys and favored by the citizens and Army personnel alike, might well be active:

NOW, THEREFORE, BE IT RESOLVED, that the Thirty-sixth Legislative Assembly of the State of Montana of 1959, the Senate and the House of Representatives concurring, memorializes the President of the United States, the Department of Defense and the Secretary thereof, that Fort Missoula, at Missoula, Montana, be activated and utilized by some regular unit of the United States armed services as rapidly as possible, and that if this be not presently possible, the said Fort Missoula be kept intact, maintained and seriously considered for future uses;

BE IT FURTHER RESOLVED, that copies of this memorial be submitted by Frank Murray, the Secretary of State of the State of Montana, to each of the individuals and departments named in the title of this memorial.

Approved February 18, 1959.

HOUSE JOINT MEMORIAL NO. 10

A Joint Memorial of the House of Representatives and the Senate of the State of Montana to the Congress of the United States; to the Honorable James E. Murray and the Honorable Mike Mansfield, Senators from the State of Montana. the Honorable Lee Metcalf and the Honorable LeRoy Anderson, Representatives in Congress from the State of Montana; and to the Committee on Military Affairs, Washington, D. C., urging that the Congress of the United States enact legislation granting pensions to World War I Veterans as heretofore done for the Spanish-American Veterans and Veterans of other prior wars of the United States.

We, your memorialists, the Thirty-Sixth Legislative Assembly of the State of Montana, in Legislative Session assembled, most respectfully represent as follows:

WHEREAS, the National policy of the United States of America has been to honor the veterans of the wars of the United States by granting assistance to them in their declining years, by pensions, all in consideration of their military services in defense of our country; and

WHEREAS, the Veterans of World War I of the United States have attained an average of approximately sixty-five years; and

WHEREAS, there has been no general pension granted to Veterans of World War I by the United States; and

WHEREAS, the United States has been and is aiding many foreign countries in restoring their economy and otherwise; and

WHEREAS, such aid has not only been and is being extended to our former co-belligerents, but also to nations with which we formerly were at war; and

WHEREAS, a grateful nation should reward as heretofore, its defenders who served here and abroad for a mere pittance of pay, and lost the opportunity to profit by the expanded economy due to war, but sacrificed their professions and jobs;

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the State of Montana, the Senate jointly concurring therein, that it is urged that the Congress of the United States of America enact legislation granting pensions to World War I Veterans as heretofore for the Spanish-American Veterans and the Veterans of other prior wars of the United States, and

BE IT FURTHER RESOLVED, that copies of this Memorial be sent to the President of the United States, the President of the Senate of the United States and the Speaker of the House of Representatives of the United States and to each of the members of the Montana delegation in the Congress of the United States.

Approved February 18, 1959.

HOUSE JOINT MEMORIAL NO. 12

A Joint Memorial of the Senate and House of Representatives of the State of Montana to the Congress of the United States; Senator James E. Murray of Montana; Senator Mike Mansfield of Montana; Congressman Lee Metcalf of Montana; Congressman LeRoy Anderson of Montana; the Committee on Interior and Insular Affairs of the United States Senate; the Committee on Interior and Insular Affairs of the United States House of Representatives; and the Secretary of Interior, Fred A. Seaton; Requesting the Establishment of a Federal Indian Policy Which Recognizes the Duty of the Federal Government to the American Indian.

WHEREAS, the State of Montana contains the fourth largest Indian population of the several states of the United States; and

WHEREAS, the United States Government, in exchange for vast grants of territory ceded by certain Indian tribes, did guarantee retained ownership of certain areas of land within the boundaries of the State of Montana as well as special services and privileges to these Indian tribes; and

WHEREAS, said guarantees and other agreements between the United States and said Indian tribes, is evidenced by treaty, custom, and statute of the Federal government — thus establishing a special legal relationship between the Federal government and said Indian tribes; and

WHEREAS, the Eighty-third Congress did adopt House Concurrent Resolution 108, stating a policy whereby Indians were to be ''subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States'' and terminating ''their status as wards of the United States''; and

WHEREAS, the policy adopted in House Concurrent Resolution 108 was a direct circumvention of the treaty established Federal responsibility to Indians; and

WHEREAS, experience has shown that the Indians within Montana were and are not economically, emotionally, or socially prepared for application of such policy; and

WHEREAS, the actual invocation of said policy has; (1) worked to the extreme detriment and severe hardship of Indian individuals and tribes within the State of Montana, (2) caused the Indians of Montana to become separated from their lands at an alarming rate, (3) created inordinate social and welfare problems within the State of Montana and the cities, towns and counties thereof; and

WHEREAS, the State of Montana and the cities, towns, and counties thereof should not be laden with the cost or the administrative burden of assuming a responsibility which is historically Federal:

NOW, THEREFORE, BE IT RESOLVED, that the Thirty-sixth Legislative Assembly of the State of Montana of 1959, now in session, the Senate and the House of Representatives concurring, do respectfully request and urge the Congress of the United States, the Members of the House of Representatives and Senate, the Interior and Insular Affairs Committee, and the Secretary of the Interior, Fred A. Seaton, that action be taken to reaffirm the Federal responsibility to the American Indian and that such reaffirmation be stated as Congressional policy and carried out by acts which will aid the Indians of the State of Montana in development of their personal and tribal resources;

BE IT FURTHER RESOLVED, that copies of this Memorial be submitted by the Secretary of the State of Montana to the Congress of the United States; Senator James E. Murray; Senator Mike Mansfield; Congressman Lee Metcalf; and Congressman LeRoy Anderson; the Chairman of the Committee on Interior and Insular Affairs of the United States Senate; the Chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives; and to the Honorable Fred A. Seaton, Secretary of Interior.

Approved February 26, 1959.

HOUSE JOINT RESOLUTION NO. 1

A Joint Resolution of the House and Senate of the State of Montana to the President of the United States, Dwight D. Eisenhower; to the Congress of the United States; to the Senate Interior and Insular Affairs' Committee; to Senators James E. Murray and Mike Mansfield; to Congressmen Lee Metcalf and LeRoy Anderson; and to the Hawaii Delegation in the United States Congress and the Governor of the Territory of Hawaii; Requesting the President and Congress of the United States to Do What May be Necessary to Give Full Statehood to the Territory of Hawaii.

WHEREAS, the Legislature of Montana is aware of the unfairness with which the Territory of Hawaii has been treated in its appeal for statehood; and

WHEREAS, the Legislature of Montana is aware of the great contributions that the Territory of Hawaii has made to the welfare of the United States, and believing that such contributions could be vastly accelerated by statehood; and

WHEREAS, the platforms of both major political parties have and do advocate statehood for Hawaii; and

WHEREAS, the President of the United States has advocated statehood for Hawaii in speeches, and before his inauguration; and

WHEREAS, the growth and prosperity of the Territory of

Hawaii, and the people of Hawaii are seriously handicapped by the territorial status that now exists; and

WHEREAS, the Territory of Hawaii, and the people of that territory have now reached a stalemate in their development that cannot be overcome until statehood is granted; and

WHEREAS, it is to the future benefit of the United States of America to accelerate the development of the vast potential that is Hawaii:

NOW, THEREFORE, BE IT RESOLVED, that the Legislature of the State of Montana, both House and Senate concurring, do petition the President and the Congress of the United States to jointly do that which is necessary to immediately give full statehood to the Territory of Hawaii; and

BE IT FURTHER RESOLVED, that copies of this Resolution be submitted by the Secretary of State of the State of Montana to each of the individuals and to the chairman of the committee named in the title of this Resolution, and also to the presiding officers of both Houses of the Congress of the United States.

HOUSE JOINT RESOLUTION NO. 2

A Joint Resolution of the House of Representatives and Senate of the State of Montana Authorizing the Employment of a Tax Consultant by the Thirty-sixth Legislative Assembly of the State of Montana.

WHEREAS, there exist extraordinary conditions in the Thirty-sixth Legislative Assembly requiring the need for the employment of a qualified tax consultant to assist the Ways and Means Committee of the House of Representatives and the Taxation Committee of the Senate; and

WHEREAS, the employment of such tax consultant is necessary for the orderly and expeditious conduct of the business of the Legislative Assembly; and

WHEREAS, the Legislative Assembly is confronted with the problem of considering legislation which may result in additional taxes or a revision upward of present taxes in order to provide sufficient funds for the operation of the various agencies of the State, schools and custodial institutions for the next biennium:

NOW, THEREFORE, BE IT RESOLVED, that the Thirty-sixth Legislative Assembly is hereby authorized to employ a tax consultant and such assistants as might be necessary, not exceeding two (2) for the remainder of the Legislative Session at such salary as may be deemed reasonable and proper.

BE IT FURTHER RESOLVED, that said tax consultant shall be an attorney at law qualified to practice in the courts of the United States of America and who has a specialized knowledge of state and federal taxation.

HOUSE JOINT RESOLUTION NO. 3

A Joint Resolution of the House of Representatives of the State of Montana, the Senate Concurring, to the State Board of Education, Requesting the Said State Board of Education to Raise the Fees and Tuition Charges of Non-Resident Students at the University of Montana.

WHEREAS, there are presently enrolled more than one thousand and three hundred (1,300) non-resident students at the University of Montana; and

WHEREAS, the per capita cost for each non-resident student varies from seven hundred eighty-four dollars ($784) per year to one thousand four hundred eighty-one dollars ($1,481) per year at the institutions of the University of Montana, but the annual fees paid by the non-resident student to offset these costs are registration and incidental fees of one hundred twenty dollars ($120) and non-resident fee of one hundred seventy-two dollars and fifty cents ($172.50), for a total of two hundred ninety-two dollars and fifty cents ($292.50); and

WHEREAS, the total cost of educating non-resident students is approximately one million two hundred ninety-seven thousand dollars ($1,297,000) per year; and

WHEREAS, the total registration, incidental, and non-resident fees paid by these non-resident students each year is approximately three hundred eighty thousand dollacrs ($380,000); and

WHEREAS, the total cost to the State of Montana for education of non-resident students each year is approximately nine hundred seventeen thousand dollars ($917,000), but the State of Montana does recognize that our institutions do receive benefits from non-resident students; and

WHEREAS, the non-resident fee at the University of Montana is lower than the non-resident fee charged by many comparable states; and

WHEREAS, the first responsibility of the state is, and should be to the students and the taxpayers of the State of Montana;

NOW, THEREFORE, BE IT RESOLVED, that the legislature of the State of Montana, the House of Representatives and the Senate concurring, do request the state board of education to raise the non-resident fees and tuitions at the University of Montana to cover a greater share of the cost of education of non-resident students; and

BE IT FURTHER RESOLVED, that copies of this resolution be submitted to the secretary of state of the State of Montana and to each member of the state board of education and to the president of each of the units of the University of Montana.

Approved March 16, 1959.

HOUSE JOINT RESOLUTION NO. 4

A House Joint Resolution Requesting and Directing the Montana Legislative Council to Make a Complete Study of the Laws, Regulations and Administration of the State Lands and Investments of the State of Montana to Determine Whether the Maximum Revenue is Being Derived from These Lands and Investments and to Recommend Ways in Which Such Revenue May be Adjusted if Necessary.

WHEREAS, no systematic study of the administration of and revenue from the state lands and investments of the State of Montana has been made in many years; and

WHEREAS, it appears that the state and the various beneficiary funds may not be realizing all the revenue that should be realized from the said state lands and investments; and

WHEREAS, it is the command of our constitution and laws that the greatest possible amount of revenue consistent with fairness should be realized from the state lands and investments;

NOW, THEREFORE, BE IT RESOLVED, that the legislative council be authorized and directed during the coming biennium to make a thorough and complete study of the laws and regulations pertaining to state lands and investments and to the administration and revenues of the state lands and investments under those laws and regulations, and report and recommend to the coming legislative assembly on the present conditions and any mprovements which they feel necessary.

Approved March 10, 1959.

SENATE JOINT MEMORIAL NO. 1

A Joint Memorial by the Senate of the Thirty-sixth Legislative Assembly of the State of Montana, the House of Representatives concurring, to the Congress of the United States; the Honorable James E. Murray, United States Senator from Montana; the Honorable Mike Mansfield, United States Senator from Montana; the Honorable Lee Metcalf, Congressman from Montana; the Honorable LeRoy Anderson, Congressman from Montana; and the Federal Communications Commission to Take Such Remedial Action As Deemed Necessary to Preclude the Closing of Very High Frequency Booster Stations Necessary for Television Reception in Areas of the State of Montana.

WHEREAS, there are many communities and farm areas within the State of Montana, whose people depend upon low power very high frequency stations as their only means of receiving television programs; and

WHEREAS, the rugged terrain of the Rocky Mountain region and the large number of isolated farm homes, ranch homes, and small communities makes the use of ultra high frequency translator stations impractical, if indeed not impossible, according to the opinions expressed by competent and qualified broadcast engineers, as well as by certain members of the Federal Communications Commission; and

WHEREAS, it is economically impossible for these communities and farm areas to support, construct, or operate any other form of duly authorized television service; and

WHEREAS, the loss of low power very high frequency booster stations would deprive not less than one-fourth of the people of Montana of television service; and

WHEREAS, there is ample proof that low power very high frequency booster stations can be regulated so as to preclude interference with licensed television services or commercial and military communications and navigation services; and

WHEREAS, the Federal Communications Commission did summarily dismiss, without formal hearing, its own rule making proceedings relating to "repeater" or "booster" stations operating in the very high frequency television band of frequency assignments; and

WHEREAS, the Federal Communications Commission did on December 31, 1958, make formal announcement of its dismissal of petitions for reconsideration, including those filed by the Honorable J. Hugo Aronson, Governor of Montana; the Honorable James E. Murray, United States Senator from Montana; the Honorable Mike Mansfield, United States Senator from Montana; the Honorable Lee Metcalf, Congressman from Montana, and the Honorable LeRoy Anderson, Congressman from Montana, all of whom sought to procure reasonable rules which would permit the continued operation of said booster stations under the regulatory power of the Federal Government; and

WHEREAS, the Federal Communications Commission did also announce on December 31, 1958, that all booster stations would be given a period of ninety (90) days in which to apply for conversion to ultra high frequency translators or some other authorized television operation, and upon failure to do so would be ordered to cease operation;

NOW, THEREFORE, BE IT RESOLVED by the Senate of the Thirty-sixth Legislative Assembly of the State of Montana, the House of Representatives concurring;

That the Senate of the State of Montana, the House of Representatives concurring, hereby memorialize the Federal Communications Commission to rescind its order of December 31, 1958 and the Congress of the United States for such remedial action within such ninety (90) day period as the Congress deems fit through the exercise of its authority over the Federal Communications Commission to insure the continued operation of low power very high frequency booster stations, to the end that the people in the small communities and rural areas of the State of Montana shall not be denied their basic right to equality of access to the informational, educational, inspirational, cultural and entertainment services of the American system of free television, and

BE IT FURTHER RESOLVED, that copies of this Joint Memorial of the Thirty-sixth Legislative Assembly of the State of Montana, be transmitted by the Secretary of State of the State of Montana; to the President of the Senate of the United States; the Speaker of the House of Representatives of the United States; the Honorable James E. Murray, United States Senator from Montana; the Honorable Mike Mansfield, United States Senator from Montana; the Honorable Lee Metcalf, Congressman from Montana; the Honorable LeRoy Anderson, Congressman from Montana; and Mr. John C. Doerfer, Chairman of the Federal Communications Commission.

Approved February 10, 1959.

SENATE JOINT MEMORIAL NO. 2

A Joint Memorial of the Senate and the House of Representatives of the State of Montana to the Congress of the United States; Honorable James E. Murray and Honorable Mike Mansfield, United States Senators of Montana; Honorable Lee Metcalf and Honorable LeRoy Anderson, Members of the House of Representatives of Montana; the Committee on Interior and Insular Affairs of the United States Senate; the Committee on Interior and Insular Affairs of the United States House of Representatives; the Secretary of the Interior; and the United States Commissioner of Reclamation, Urging that the Congress Reject the Program of the United States Bureau of Reclamation, as Set Forth in Its Report on the Three Forks Division, Missouri River Basin Project, Insofar as it Relates to the Diversion of Water from the Madison River and That the Congress Assure the Preservation of Recreational and Fishery Resources Values of the Madison River Valley.

WHEREAS, the United States Bureau of Reclamation since 1942 has been investigating various plans to divert water from the Madison River in Montana, and

WHEREAS, the Bureau now has set forth a recommended plan of development which includes construction of the Cameron diversion dam on the Madison River and a 32-mile canal; the Madison diversion dam on the same river and a 58-mile canal; and the Lyon powerplant on the Madison River and a 6.3-mile canal, all of which are intended to divert water from the Madison River for irrigation or power purposes, and

WHEREAS, said proposed diversions of water would aggregate 885 cubic feet per second for power purposes and 675 cubic feet per second for irrigation purposes, all of which would dangerously reduce the amount of water for fishery resources in the Madison river, and

WHEREAS, this plan would result in heavy drawdown of Hebgen Lake during the summertime irrigation season, causing serious fluctuations in the lake level, creating unsightly mud flats and reducing the values of homes and recreational facilities which are located on the shores of Hebgen Lake, and

WHEREAS, Hebgen Lake and the Madison River are universally recognized as being among the finest rainbow trout fishing waters in the entire world, attracting each year large numbers of sportsmen from all sections of North America, and

WHEREAS, residents of the town of Ennis and its surrounding recreational area have made large investments based on the tourist trade, and the economy of this area is largely dependent upon a continuation of excellent fishing and recreational activities, and

WHEREAS, fluctuations in the levels of Hebgen Lake and the Madison River would result in serious adverse effect, if not complete destruction, of the fishery resources of the area, and

WHEREAS, the diversion of 675 cubic feet per second of water from the Madison River would reduce the flow of the river by one-third to one-half during the irrigation season and would nearly deplete the river during periods of severe water shortage, thereby causing serious adverse effect on recreation and fishing and on landowners with long-standing water rights on the river, and

WHEREAS, the power installation proposed at the Lyon site is unnecessary and wasteful and would duplicate the power supply which has adequately served the area for 58 years, and

WHEREAS, encroachment by the government in the power supply industry in the Madison River Valley would threaten the existing facilities of the present supplier and would jeopardize the tax revenue now received by Madison County on these facilities, such tax revenues exceeding $81,000 per year, and

WHEREAS, the present operation of Hebgen reservoir is controlled by regulation of the Federal Power Commission for the purpose of preserving the area for recreation and fishing, and whereas the Bureau of Reclamation would not be subject to control and regulation by that Commission, and

WHEREAS, the United States Fish and Wildlife Service has objected to parts of the Bureau of Reclamation program and the Montana Fish and Game Commission has expressed strong opposition to the adoption of the Bureau's plan because of the serious adverse effect on fishery resources of the Madison River Valley,

NOW, THEREFORE, BE IT RESOLVED that the Senate and the House of Representatives of the State of Montana memorializes the Congress of the United States to reject the Bureau of Reclamation proposal to divert water from the Madison River and to declare it to be the intent of Congress that any program which would jeopardize the fishery resources and recreational values of the Madison River Valley and which would result only in impractical, unwise, costly and wasteful irrigation and power projects shall cease, and

BE IT FURTHER RESOLVED, that the appropriate committees of the Congress convey to the Department of the Interior and the Bureau of Reclamation notice of this congressional intent, and

BE IT FURTHER RESOLVED, that we call upon the Department of the Interior and the Bureau of Reclamation to abandon all plans for diverting Madison River water in such ways as would adversely affect the recreational values, sports-fishery resources and water rights in the area, and

BE IT FURTHER RESOLVED, that copies of this Memorial be submitted to the Secretary of State of Montana, to each of the individuals named and to the chairman of each of the committees and agencies named in the title of this Memorial and to the presiding officers of the Senate and the House of Representatives of the United States Congress.

Approved February 26, 1959.

SENATE JOINT MEMORIAL NO. 3

A Joint Memorial of the Senate and House of Representatives of the State of Montana to the Congress of the United States; Honorable James E. Murray and Honorable Mike Mansfield, Senators from the State of Montana; Honorable Lee Metcalf and Honorable LeRoy Anderson, Representatives in Congress from the State of

Montana; Urging the United States Congress to Investigate and Study the Supply, Control, Allocation and Use of the Missouri Basin Waters and Power.

WHEREAS, it is a well established fact that the growth and development of any basin area in the United States is dependent upon adequate water supply for industry, agriculture, power, and municipal requirements; and

WHEREAS, the people of Montana are now looking to the Missouri River for large quantities of water for the ultimate irrigation of a quarter of a million acres of land; and are endeavoring to establish industry in this state to maintain and hold the future young people of this state; and in order to have this industry, large blocks of low-cost power will be needed for development; and

WHEREAS, it is evident that the present disposition of the Missouri waters will result in a shortage of water to meet the aforementioned requirements in addition to meeting requirements as are now proposed in other Missouri River basin states; and

WHEREAS, it is imperative that a determination be made as quickly as it is possible, regarding an equitable and prudent handling of these Missouri basin waters so that the most justifiable water requirements can be met to the fullest extent possible, with all due regard to the State of Montana in which over eighty per cent (80%) of the waters on the Missouri system rise.

NOW THEREFORE, BE IT RESOLVED, that the Thirty-sixth Legislative Assembly of the State of Montana of 1959, now in session, the Senate and the House of Representatives concurring, do recommend to the Congress of the United States, that they immediately proceed with a complete investigation and study of the Missouri basin water supply situation. This investigation and study to cover the present method of control and allocation of water; control and allocation of federally generated power; and the question of maximum financial return to the federal government through the sale of such power as it shall produce.

BE IT FURTHER RESOLVED, that the Congress of the United States make a study of the present application of the O'Mahoney-Millikin amendment to the flood control act of 1944, to determine if there is any abrogation of that amendment.

BE IT FURTHER RESOLVED, that the Congress of the United States take such steps as shall be necessary to the end that Montana people and Montana industry shall be given first consideration in the adjudication of water and power distribution, and to protect their rights in such water and such power already established, whether by use or otherwise.

BE IT FURTHER RESOLVED, that copies of this memorial be forwarded by the Secretary of the Senate of the State of Montana to each of the individuals named in the title of this memorial, Honorable James E. Murray and Honorable Mike Mansfield, Senators from the State of Montana and Honorable Lee Metcalf and Honorable LeRoy Anderson, Representatives in Congress from the State of Montana.

Approved March 10, 1959.

SENATE JOINT RESOLUTION NO. 1

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the First Legislative Assembly of the State of Alaska, to its Officers and Members Thereof, Congratulating the First Assembly of the State of Alaska on Its Initial Session and Offering and Extending to the Assembly the Aid, Cooperation and Help of the Senate and the House of Representatives of the Thirty-sixth Legislative Assembly of the State of Montana; and Extending an Invitation to the Officers and Members of the First Legislative Assembly of the State of Alaska to Visit the Thirty-sixth Legislative Assembly of the State of Montana Now in Session; Directing the Secretary of the Senate to Forward Copies of this Resolution to the First Legislative Assembly of the State of Alaska.

Be It Resolved by the Senate and House of Representatives of the Thirty-sixth Legislative Assembly of the State of Montana:

WHEREAS, the great State of Alaska has been admitted into the Union of the United States of America as the forty-ninth state; and

WHEREAS, the First Legislative Assembly of the new State of Alaska will convene in session at Juneau, Alaska on the twenty-sixth day of January, 1959; and

WHEREAS, the problems confronting the First Legislative Assembly of the State of Alaska will be similar in nature to those that have confronted the legislative assembly of the State of Montana in past sessions and that are confronting the present session; and

WHEREAS, the great States of Alaska and Montana are now nearby sister states and their progress and development will depend on the full cooperation of each state to the other; and

WHEREAS, it would be fitting and proper for the Thirty-sixth Legislative Assembly of the State of Montana, now in session, to congratulate the First Legislative Assembly of the State of Alaska, and wish them success in their initial session and to offer and assure them of the utmost cooperation and help of the Senate and House of Representatives of the Thirty-sixth Legislative Assembly of the State of Montana in any legislative problems that may arise; and extend to its officers and members a cordial invitation to visit the Thirty-sixth Legislative Assembly of the State of Montana;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE THIRTY-SIXTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA, that we earnestly and sincerely congratulate the First Legislative Assembly of the State of Alaska on its initial legislative assembly and to wish them success, to offer and assure them of our utmost cooperation and help, and extend its officers and members a cordial invitation to visit the Thirty-sixth Legislative Assembly of the State of Montana now in session.

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded by the Secretary of the Senate of the State of Montana to the First Legislative Assembly of the State of Alaska.

Approved February 26, 1959.

SENATE JOINT RESOLUTION NO. 2

A Joint Resolution by the Senate of the Thirty-sixth Legislative Assembly of the State of Montana, House of Representatives concurring, to the Honorable Dwight D. Eisenhower, President of the United States; to the Honorable Neil McElroy, Secretary of Defense; to the President of the Senate of the United States; to the Speaker of the House of Representatives of the United States; to the Honorable James E. Murray, Senator from Montana; to the Honorable Mike Mansfield, Senator from Montana; to the Honorable Lee Metcalf, Congressman from Montana; to the Honorable LeRoy Anderson, Congressman from Montana; to the Honorable Richard B. Russell, Senator from Georgia and Chairman of the Senate Armed Services Committee; and to the

Honorable Carl Vinson, Congressman from Georgia and Chairman of the House of Representatives Armed Services Committee, urging that the President and the Congress Assure the People of the State of Montana that the National Guard of the United States, as Recognized and Established in the Constitution and Laws of the United States, Will be Preserved; and that No Unilateral Federal Action Concerning the National Guard of the United States Reducing In Strength or Units Will Be Taken Without Prior Consultation and Approval of the States Acting by and Through the Governor Thereof.

WHEREAS, the Constitution of the United States of America provides the individual citizen with several inalienable rights and that Constitution with its inelineable rights for the individual is being threatened by the communist nations of the world wherein the rights of the state and not the rights of the individual are supreme; and,

WHEREAS, the dual role of the National Guard, as recognized and established in the Constitution and laws of the United States, requires that it effectively serve the needs of the States in time of peace as well as those of the Nation in time of war; and,

WHEREAS, the realities of modern defense requirements dictate that the National Guard be established on a basis which will enable it to adequately serve the States as an immediately available defense and retaliatory force, in the interval prior to effective national mobilization, in the event of a surprise attack; and,

WHEREAS, the proposed plan to reorganize the Department of Defense grants to the Secretary of Defense vastly increased powers which could be used to eliminate or greatly reduce the National Guard of the United States; and,

WHEREAS, the Department of Defense did develop and announce without prior consultation and approval of the governors of the several states and territories a plan to greatly reduce the National Guard of the United States; and,

WHEREAS, the governors of the several states are opposed to such unilateral Federal action concerning the National Guard, both Army and Air, and did oppose a reduction in strength or units of the National Guard in a resolution adopted by the United States Conference of Governors, May 21, 1958; and,

WHEREAS, the Honorable J. Hugo Aronson, Governor of the State of Montana as representative of the several western states' governors did personally appear before the United States House of Representatives Armed Services Committee and oppose any reduction in strength or units of the National Guard.

NOW, THEREFORE, BE IT RESOLVED by the Senate of the Thirty-sixth Legislative Assembly of the State of Montana that: the people of the State of Montana are opposed to unilateral Federal action concerning the National Guard of the United States, both Army and Air, and oppose any reduction in strength or units without prior consultation and approval of the states acting by and through the Governor thereof.

BE IT FURTHER RESOLVED that the Clerk of the Senate of the Thirty-sixth Legislative Assembly of the State of Montana transmit copies of this resolution to the President of the United States; to the Secretary of Defense; to the President of the Senate of the United States; to the Speaker of the House of Representatives of the United States; to the Honorable James E. Murray, Senator from Montana; to the Honorable Mike Mansfield, Senator from Montana; to the Honorable Lee Metcalf, Congressman from Montana; to the Honorable LeRoy Anderson, Congressman from Montana; to the Honorable Richard B. Russell, Senator from Georgia and Chairman of the Senate Armed Services Committee; and to the Honorable Carl Vinson, Congressman from Georgia and Chairman of the House of Representatives Armed Services Committee.

Approved February 10, 1959.

SENATE JOINT RESOLUTION NO. 3

A Joint Resolution of the Senate, the House of Representatives Concurring, of the Thirty-sixth Legislative Assembly of the State of Montana, 1959, Authorizing and Encouraging Continued and Extended Study by the State Board of Health of the Problems Occasioned by the Narcotic-like Substances, and, Further Study of the Problems of Alcoholism and to Report Their Findings and Recommendations for the Prevention and Cure of Alcoholism to the Thirty-seventh Legislative Assembly of the State of Montana.

Be it resolved by the Senate and House of Representatives of the Thirty-sixth Legislative Assembly of the State of Montana:

WHEREAS, the problems occasioned by the misuse of the narcotic-like substances are recognized as of extreme importance, personally, socially, industrially, professionally, and economically; and

WHEREAS, the use and misuse of these substances have many implications in the health and general welfare of the people of Montana; and

WHEREAS, a knowledge of the nature of these substances, the causes of misuse, and facts about the treatment and rehabilitation of the victims of misuse, is essential to the health and well being of the people of the state; and

WHEREAS, preliminary study in Montana, has shown that the problem of greatest import in the field of the narcotic substances in this state, is the problem of alcoholism; and

WHEREAS, Section 69-105, Revised Codes of Montana, 1947, provides that the State Board of Health make investigations and inquiries regarding the causes of disease, and the effects of conditions, ingesta, habits and circumstances of the people, and make reports of such investigations, with such suggestions and recommendations as is deemed proper; and

WHEREAS, Chapter 104, Laws of Montana, Thirty-first Session, 1949, provides that the State Board of Health furnish consultant services in narcotic education to the general public and to the Montana educational institutions; and

WHEREAS, with these consultant services, attempts have been made to study alcoholism in Montana and the problems incident to treatment, rehabilitation, and education, in this field;

NOW THEREFORE, BE IT RESOLVED, that the Senate of the Thirty-sixth Legislative Assembly of the State of Montana, the House of Representatives concurring, authorizes and encourages the State Board of Health to continue the study of alcoholism in Montana, and its concomitant problems, supplementing its own efforts with the aid and advice of any existing citizens' advisory committee, or other committees or groups, composed of representatives of all agencies and persons interested in all aspects of the problems; and

BE IT FURTHER RESOLVED, that the Montana State Board of Health report their findings and recommendations as to appropriate steps to be taken for the prevention and cure of alcoholism to the Thirty-seventh Legislative Assembly of the State of Montana.

Approved March 10, 1959.

THIRTY-SIXTH LEGISLATIVE ASSEMBLY

SENATE JOINT RESOLUTION NO. 4

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States; to the Congress of the United States; to Senators James E. Murray and Mike Mansfield from the State of Montana; to Congressmen Lee Metcalf and LeRoy Anderson from Montana; Requesting the Reaffirmation of National Policy of Federal Financial Support for Education.

WHEREAS, we, (The Montana State Legislature) recognize the education of our youth as the most important responsibility of our local, state, and national governments, if our national defense, our system of free enterprise, and our devotion to the ideals of American democracy are to endure; and

WHEREAS, despite earnest efforts on the part of the several school districts of the State of Montana to meet the cost of providing adequate school facilities for an ever expanding enrollment and despite the continued increase in state funds to help meet the cost of supporting public elementary and secondary schools, there continues to be a widening gap between need, and funds to meet the need; and

WHEREAS, the financial resources of the counties and the states are increasingly overburdened by using school costs and enrollments, to the neglect of other essential county and state responsibilities; and

WHEREAS, there continues to be a shortage of qualified teachers, since, despite all efforts to the contrary, teachers' salaries in Montana are inadequate to recruit and retain a sufficient number of good teachers to serve all the children,

NOW, THEREFORE, BE IT RESOLVED, that the Montana State Legislature petition the United States Congress to provide suffficient funds through the proposed "School Support Act of 1959" (sponsored by Senators Murray, Mansfield and others, and introduced by Congressman Lee Metcalf and others, including Congressman LeRoy Anderson) in order that local and state control of education may be continued by providing, by means of the more equitable taxing authority of the federal government, a share of the federal income to the several states in amounts sufficient to supplement state and local financial resources for this most important of all state services; and

BE IT FURTHER RESOLVED, we hereby respectfully petition the Congress of the United States to reaffirm the national policy of federal financial support for education which has ample precedent in the school land grants given to this and other states nearly 100 years ago and without which even the present inadequate programs of public education could not survive; and

BE IT FURTHER RESOLVED, that copies of this resolution be submitted by the Secretary of State of the State of Montana to the President of the United States; to the Congress of the United States; to Senators James E. Murray and Mike Mansfield from the State of Montana; to Congressman Lee Metcalf and LeRoy Anderson from Montana.

Adopted by House February 24, 1959.

Adopted by Senate February 27, 1959.

SENATE JOINT RESOLUTION NO. 5

A Joint Resolution of the Senate and of the House of Representatives of the State of Montana Requesting That the Governor of the State of Montana Instruct and Require All Executive Departments to Prepare and Have Ready for Submission Any Requests for Legislative Action Upon the First Day of the Legislative Session.

WHEREAS, the Legislative Assembly of the State of Montana is heavily burdened by the manner and time of submission of bills by various legislative departments; and

WHEREAS, many executive departments neglect the communication of their needs and desires for legislative action until the Legislative Assembly is heavily burdened with other work; and

WHEREAS, these executive departments have the full period of two (2) years between legislative sessions to prepare their requests for legislative action; and

WHEREAS, it is the desire of the Legislative Assembly that its work load be made as uniform as possible throughout the session and that it have adequate time to fully consider all matters.

NOW, THEREFORE, BE IT RESOLVED, that the Thirty-sixth Legislative Assembly request and hereby does request the Governor of the State of Montana, the Honorable J. Hugo Aronson, to instruct and require, and to issue all necessary orders; instructing and requiring, that all executive state offices which have any request for legislative action to make at future Legislative Assemblies have such requests ready in whatever form is necessary for their presentation to the Legislative Assembly upon the first day of every session.

BE IT FURTHER RESOLVED, that any executive department which desires to submit to the Legislative Assembly or to any member thereof any proposed legislation be instructed that such legislation, in the form of a bill ready for introduction, should be completed and ready for such introduction upon the first day of each legislative session.

BE IT FURTHER RESOLVED, that the Secretary of State be instructed to send a copy of this resolution to the Governor of the State of Montana, the Honorable J. Hugo Aronson.

Approved March 2, 1959.

CHANGES OF NAMES DECREED IN 1957 - 1958

Date of Judgment	Original Name	Name Decreed	Residence
Oct. 11, 1956	Dana Lynn Braaten	Dana Lynn Spitzer	Roosevelt Co.
March 7, 1957	Robert Leroy Sandsted	Robert Leroy Sampson	Silver Bow Co.
	Patricia Elaine Sandsted	Patricia Elaine Sampson	
	Theresa Rose Sandsted	Theresa Rose Sampson	
	John Alan Sandsted	John Alan Sampson	
Jan. 25, 1957	Elmer Robert Hopkins	Jerome Robert Hopkins	Missoula
March 9, 1957	John Edward Dooley	John Edward Gilbert	Missoula
June 13, 1957	Gilbert Ernest Joe Porter	Joe Gilbert Porter	Missoula
June 14, 1957	Guenther Paul Alexander Schlotterbeck	Paul Alexander Beck	Gallatin Co.
Sept. 17, 1957	Oluf Hack Arroe	Hack Arroe	Gallatin Co.
Sept. 20, 1957	Dorothea Hella Whitney	Helen Dorothea Whitney	Gallatin Co.
Nov. 4, 1957	Gladys Joan Marshall	Joan Gale Marshall	Gallatin Co.
March 27, 1957	Theophil Onbekent	Phil O. B. Kent	Red Lodge
May 8, 1957	Wilda Helen VerSteeg	Wilda Helen Pendergraft	Ravalli Co.
Dec. 23, 1957	John Carl Tooley	John Carl Lagerquist	Ravalli Co.
Jan. 31, 1957	Doris Levay Berckmoes	Doris Levay Lasch	Billings
Feb. 11, 1957	Bertha Maggie Wilkerson	Bertha Charlean Wilkerson	Los Angeles, Calif.
April 29, 1957	Barbara Ann Felt	Candace Ann Felt	Billings
June 10, 1957	Goldie Gum Myrebo	Goldie V. Gum	Billings
Sept. 4, 1957	William Joe Goodwin	Billy Dee Goodwin	Billings
Sept. 10, 1957	Thomas Allen Swartz	Thomas Allen Coakley	Billings
Sept. 19, 1957	Bernard Obrigewitsch Ella Mae Obrigewitsch Lawrence George Obrigewitsch James Bernard Obrigewitsch Gene Robert Obrigewitsch and Bonita Marie Obrigewitsch	The family name of Obie	Billings
May 14, 1957	Richard McMahon	Richard Beller	Dixon
July 23, 1957	Paul Clark	Paul Clark Lane	Thompson Falls
July 24, 1957	Harold Germanus Mickelson	Harold Germanus Eklund	Deer Lodge Co.
Feb. 13, 1957	Leland Edward Allen	Lee Edward Allen	Deer Lodge Co.
Dec. 29, 1958	Micheal George Urban	Micheal George Pertile	Roundup
April 14, 1958	Donald Leon McGinley	Donald Leon Lind	Billings
July 29, 1958	Ronald Lee Young	Ronald Lee Redfield	Billings
Oct. 6, 1958	Billie Rose Lawrence	Billie Rose Karns	Billings
Oct. 6, 1958	Norman Bernard Dickey	Norman Bernard Truax	Billings
Dec. 19, 1958	Clarence Russell Weight	Clarence Russell Waite	Billings
March 6, 1958	Vernal Jacob Sandau	Vernal Jacob Smith	Missoula
Jan. 30, 1958	Isaac Wayne Baney	Victor Wayne Baney	Missoula
Feb. 28, 1958	Charles Everett Otoupalik	Charles Everett Francis Mollett	Missoula
Dec. 22, 1958	Shirley Mae Van	Shirley Mae Bache	Missoula
April 16, 1958	Jack Gordon Vigil	Jack Gordon Adams	Deer Lodge Co.
May 21, 1958	Swedish Evangelical Lutheran Zion Church (also known as The First Lutheran Church of Anaconda, Montana	The First Evangelical Lutheran Zion Church of Anaconda, Montana	Deer Lodge Co.
Jan. 21, 1958	Erich Albert Wolter	Eric Albert Walters	Flathead Co.
Feb. 3, 1958	Ben Francis Senato	Ben Francis Granier	Flathead Co.
March 21, 1957	Harry Lawrence Damson	Harry Lawrence Dempsen	Hardin
Sept. 26, 1957	Louie Obrigewitsch (also known as Ludwig Obrigewitsch	Louie Obie	Big Horn Co.
July 14, 1958	Candace Maurine Comer	Candace Maurine Evans	Bozeman
Jan. 21, 1958	Boukje Huttings	Bertha Huttings	Gallatin Co.
June 17, 1958	Alje Renger Kimm	Alex Ranger Kimm	Gallatin Co.
Dec. 16, 1958	Waldemar Martel	Walter Martel	Gallatin Co.
Dec. 16, 1958	Wilhelm Martel	William Martel	Gallatin Co.
Sept. 5, 1957	Harlan Dean Groteluschen Lila Nadene Groteluschen Harlan Dean Groteluschen, Jr. Vicke Kay Groteluschen	Harlan Dean Lila Nadene Dean Harlan Dean, Jr. Vicke K. Dean	Havre
April 9, 1957	Roger Julius Bremseth	James Morgan	Helena
April 23, 1957	David Scott Feld	David Scott Ray	Helena
May 28, 1957	Gary A. Drallmeier	Gary A. Manson	Helena
	Dwayne D. Drallmeier	Dwayne D. Manson	
March 4, 1958	Edward Louis Smith	Edward Louis Ryan	Silver Bow Co.

CHANGES OF NAMES DECREED IN 1957 - 1958

Date of Judgment	Original Name	Name Decreed	Residence
July 11, 1958	Larry O'Dell Jackson	Larry O'Dell LeClair	Silver Bow Co.
May 12, 1958	Don Wilshire MacMillan	Donald James McMillan	Silver Bow Co.
July 25, 1958	Clarence W. Thompson	Clarence J. Burns	Silver Bow Co.
Sept. 18, 1957	Agnes M. Jacobson	Agnes Mary Fochs	Wheatland Co.
Feb. 20, 1957	Vernon Lyle Johnson	Val Johnson Labrie	Wheatland Co.
July 8, 1958	Thoralf Hardenbrook	Thoralf Moline, Jr.	Chouteau Co.
March 21, 1958	Fred Vincent Radinsky	Fred Vincent Radine	Cascade Co.
April 23, 1958	Frank William Karhiaho Lucille Montana Karhiaho James William Karhiaho	Frank William Karhi Lucille Montana Karhi James William Karhi	Cascade Co.
June 19, 1958	Richard Karl Kunz, Jr.	Richard Carl Peters	Cascade Co.
June 20, 1958	William Richard Gilmore	William Richard Steinmetz	Cascade Co.
Aug. 15, 1958	Clinton Spencer, Jr.	Michael Zachary Spencer	Cascade Co.
Sept. 18, 1958	Nina Lillian Jones	Jeannie Lillian Jones	Cascade Co.
Dec. 30, 1958	William Mufley Lake, Jr.	William James Lake	Cascade Co.
Feb. 17, 1958	Arnold Opstad	Arnold Evenson	Rosebud Co.
April 15, 1958	Merle Addis Reeve Martha Ella Reeve Viana Lynn Reeve Charles Emmett Reeve	Addis Ames Avitt, Jr. Martha Ella Avitt Diana Lynn Avitt Charles Emmett Avitt	Fergus Co.
Aug. 5, 1958	Jean Alfred DeBeaufort	Gene Walter Gough	Drummond
Aug. 19, 1958	Agnes Christine Margaret Metcalf	Kennybell Margaret Metcalf	Drummond

APPENDIX

APPENDIX

The following constitutional amendment and referendum measures, adopted by the people at the general election held November 4, 1958, became effective respectively by virtue of the governor's proclamations of December 8, 1958, November 28, 1958, and December 8, 1958:

CHAPTER 161

An Act to Provide for the Submission to the Qualified Electors of the State of Montana an Amendment to Section 6, Article XIII of the Constitution of the State of Montana, Relating to the Limitations of Indebtedness of Liability of School Districts, High School Districts, Towns and Townships.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6 of Article XIII of the Constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the state of Montana at the General election to be held in November of 1958.

Section 2. That Section 6 of Article XIII of the Constitution of the State of Montana be, and the same is hereby amended to read as follows:

''Section 6. No city, town, township, school district or high school district shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding five per centum (5%) of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of such city, town, township, school district, or high school district shall be void; and each school district and each high school district shall have separate and independent bonding capacities within the limitation of this section; provided, however, that the legislative assembly may extend the limit mentioned in this section, by authorizing municipal corporations to submit the question to a vote of the taxpayers affected thereby, when such increase is necessary to construct a sewerage system or to procure a supply of water for such municipality which shall own and control said water supply and devote the revenues derived therefrom to the payment of the debt."

Section 3. This amendment shall be submitted to the qualified electors of the State of Montana by being placed upon an official ballot provided by chapter 11 of title 23 of the Revised Codes of Montana, 1947, as amended by chapter 79 of the session laws of Montana of 1949, and as amended by chapter 72 of the session laws of Montana of 1953, and as provided by law; and there shall be printed on such ballots the title of this act and the following words:

☐ For the Above Amendment.

☐ Against the Above Amendment.

Approved March 7, 1957.

CHAPTER 180

An Act to Amend Section 4-417, Revised Codes of Montana, 1947, Relating to Excise Tax on Liquor; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4-417, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

"4-417. Excise Liquor Tax—Collection. The Montana liquor control board is hereby authorized and directed to charge, receive and collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the State of Montana an excise tax at the rate of sixteen per centum (16%) of the retail selling price on all liquor so sold and delivered. The Montana liquor control board shall retain the amount of such excise tax received in a separate account and shall deposit with the state treasurer, to the credit of the general fund, such sums so collected and received not later than the tenth (10th) day of each and every month."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1957.

CHAPTER 218

An Act Providing for the Increase of the Rate of Taxation on Real and Personal Property for State Purposes of Not to Exceed Six (6) Mills on Each Dollar of Taxable Valuation in Addition to the Levy Which Is Now or May Be Hereafter Authorized by Section 9 of Article XII of the Constitution of the State of Montana, for a Period of Ten (10) Years Beginning With the Year 1959, and to Authorize and Empower the Legislative Assembly to Levy a Tax for Each Year During Such Period of an Additional Levy of Not to Exceed Six (6) Mills on Each Dollar of Taxable Valuation for the Support, Maintenance and Improvement of the Six Units Now Comprising the University of Montana, Together With the Agricultural Experiment Station and Its Branches and Substations, and the Agricultural Extension Service, Including the Soil Survey and the Grain Laboratory and to Appropriate so Much of the Money Derived Therefrom for Each Year During Said Period as May Be Necessary for Said Purposes, and Providing for the Submission of This Act to the Qualified Electors of the State of Montana at the Next General Election, Describing the Form of Ballots to Be Used and the Duties of the Secretary of State of the State of Montana Relative to the Submission of Said Act to the Qualified Electors of Said State; Providing When This Act Shall Take Effect, and Providing for Repeal of Chapter 217 of the Laws of 1947 and All Other Acts and Parts of Acts in Conflict Herewith Upon Approval of This Act by a Majority of All Votes Cast at the Referendum Election Herein Provided.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the rate of taxation on real and personal property for state purposes, as is hereafter defined, for each year for a period of ten (10) years beginning with the year 1959; shall be increased six (6) mills on each dollar of taxable valuation in addition to the levy which is now or may hereafter be authorized by Section 9 of Article XII of the Constitution of the State of Montana, and the legislative assembly is authorized and empowered to levy an additional tax for state purposes for each of said years of not exceeding six (6) mills on each dollar of taxable valuation for state purposes, and all money derived from said additional levy of six (6) mills for each of said years or so much thereof as may be necessary shall be appropriated by the legislative assembly for the support, maintenance and improvement of the state university of Missoula, the state college of agriculture and mechanic arts at Bozeman, the Montana state school of mines at Butte, the western

Montana college of education at Dillon, the eastern Montana college of education at Billings, and the northern Montana college at Havre, now comprising the units of the university of Montana, together with the agricultural experiment station and its branches and substations, and the agricultural extension service, including the soil survey and grain laboratory.

Section 2. There shall be a referendum upon this act, and the secretary of state of the State of Montana is hereby required and it is made his duty to submit this act to the people of the State of Montana for their approval or rejection at the general election to be held in November, 1958, in accordance with the provisions of the constitution and the laws of the State of Montana relative thereto; the title and number of their referendum act shall be printed upon the official ballot used at said election. Irrespective of the provisions of section 37-105, Revised Codes of Montana, 1947, such title shall read as follows:

An act providing for the increase of the rate of taxation on real and personal property for state purposes of not to exceed six (6) mills on each dollar of taxable valuation, in addition to the levy which is now or may be hereafter authorized by Section 9 of Article XII of the Constitution of the State of Montana, for a period of ten (10) years beginning with the year 1959, and to authorize and empower the legislative assembly to levy a tax for each year during such period of an additional levy of not to exceed six (6) mills on each dollar of taxable valuation for the support, maintenance and improvement of the six units now comprising the University of Montana, together with the agricultural experiment station and its branches and substations, and the agricultural extension service, including the soil survey and the grain laboratory and to appropriate so much of the money derived therefrom for each year during said period as may be necessary for said purposes, and providing for the submission of this act to the qualified electors of the State of Montana at the next general election describing the form of ballots to be used and the duties of the secretary of state of the State of Montana relative to the submission of said act to the qualified electors of said state; providing when this act shall take effect, and providing for repeal of chapter 217 of the laws of 1947 and all other acts and parts of acts in conflict herewith upon approval of this act by a majority of all votes cast at the referendum election herein provided.

Below the said title of the act on said ballot there shall be printed the words and squares:

☐ For the Levy for the University, Agricultural
Experiment Stations and Extension Service.

☐ Against the Levy for the University, Agricultural
Experiment Stations and Extension Service.

Each qualified elector shall designate his preference by marking an "X" in the square before the proposition for which such elector desires to vote.

Section 3. The vote upon this referendum act shall be counted and canvassed as is provided by law and if a majority of all votes cast at such election for and against such referendum act shall be in favor of the act, the governor of the State of Montana shall immediately so declare by public proclamation.

Section 4. This act shall be in full force and effect from and after its passage by this legislative assembly, approval by a majority vote of the qualified electors and proclamation of the governor thereafter; provided, however, nothing contained herein shall be construed to or shall in any manner effect a repeal of chapter 217 of the laws of 1947 unless a majority of all votes cast at the referendum election herein provided shall be in favor of this act. Upon approval of this act by a majority of all votes cast at the referendum election herein provided, chapter 217 of the laws of 1947 and all other acts and parts of acts in conflict herewith shall be hereby repealed.

Approved March 11, 1957.

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